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## **ABSTRACT**

The setting and cast of characters involved in arms control have changed since the end of the Cold War. Changes in world dynamics occurring in tandem with globalization have brought about an increasing focus on human rights and human security. National borders and state sovereignty, still the foundation of our current international system, are declining in importance with these trends in globalization. This trend flowed into the arena of arms control in 1997 by banning a weapon stockpiled and used in almost every nation's military. This paper seeks to answer questions concerning these changes and about the implications of the 1997 Antipersonnel Landmine Convention as an example of a possible new framework for arms control. This paper seeks to answer the questions of whether or not the Ottawa Convention was an aberration or is likely to become a new way of doing business. It also seeks to understand the likelihood that certain weapon systems will become the target of such a future ban. From this analysis, this paper seeks to increase awareness of the Air Force and DoD with regard to international and domestic political contexts facilitating such a framework. The author provides general recommendations concerning US policy approach with regard to conventional weapons and arms control negotiations.

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# **The Antipersonnel Landmines Convention and the Evolving Politics of Arms Control**

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**THE VIEWS EXPRESSED IN THIS ARTICLE  
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GOVERNMENT**

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**ABSTRACT**

The setting and cast of characters involved in arms control have changed since the end of the Cold War. Changes in world dynamics occurring in tandem with globalization have brought about an increasing focus on human rights and human security. National borders and state sovereignty, still the foundation of our current international system, are declining in importance with these trends in globalization. This trend flowed into the arena of arms control in 1997 by banning a weapon stockpiled and used in almost every nation's military. This paper seeks to answer questions concerning these changes and about the implications of the 1997 Antipersonnel Landmine Convention as an example of a possible new framework for arms control. This paper seeks to answer the questions of whether or not the Ottawa Convention was an aberration or is likely to become a new way of doing business. It also seeks to understand the likelihood that certain weapon systems will become the target of such a future ban. From this analysis, this paper seeks to increase awareness of the Air Force and DoD with regard to international and domestic political contexts facilitating such a framework. The author provides general recommendations concerning US policy approach with regard to conventional weapons and arms control negotiations.

## **EXECUTIVE SUMMARY**

The Ottawa Convention and the novel process that gave it life provide the Department of Defense with a clue to understanding the changing political dynamics surrounding arms control in general, and conventional arms control in particular. The DoD needs to be aware of and adapt to these evolving dynamics or risk losing its ability to shape the international security environment. The DoD needs to answer and reevaluate the likelihood and implications of future arms control agreements resulting from an Ottawa-like process, as well as the issues that will likely be addressed.

### **Recommendations**

The following general recommendations for DoD take into consideration the nature of the changes in the arms control environment and the implications this has for the future. These recommendations can serve as a guide for specific policy proposals that seek to move the DoD in the direction suggested here.

#### ***Increase Awareness and Adaptation to Changed Political Contexts for Arms Control***

The most important thing the DoD can do in the wake of the Ottawa Convention is to increase its awareness of the changing setting and evolving actors that engage in arms control. The DoD should study further the way the private sector reacts to the increased pressures from human rights organizations, environmental organizations, and other forms of international political pressure. This should be done in conjunction with direct monitoring of NGO agendas, especially when those activities involve the sponsorship of small and medium powers. This will both increase DoD awareness and provide valuable lessons to improve policies.

#### ***Enhance Cooperation with NGOs***

Related to the previous recommendation, enhancing the relationship between DoD and NGOs could prove to be beneficial for both parties as well as their constituents. While often adversarial, the DoD can improve relations by clearly evaluating NGO arms control agendas, increasing transparency, and providing appropriate training about NGOs.

### **Major Findings**

The preceding recommendations come from the findings on the Ottawa Convention and Ottawa Process that I highlight and describe briefly here.

***1) The Ottawa Process is substantively different than previous approaches to arms control.*** The

current institutional forums that address conventional arms control are the United Nations Conference on Disarmament and the Convention on Conventional Weapons. The later of these currently addresses fragmentation weapons, landmines, incendiary weapons, and blinding laser weapons.

- 2) *Five deciding factors played a critical role in the Ottawa Process and can be evaluated in the present.* The five factors that I find as necessary ingredients are stalemate or a slow process in the CD and CCW, a moral claim, a coalition of like-minded NGOs and States around a single issue, strong visual images combined with Princess Diana et al., and a convener. These factors led to the success of the Ottawa Process, and the absence of any of these factors could easily have crippled the movement.
- 3) *While it is possible that the Ottawa Process could be repeated, it is not probable.* Certain factors such as a moral claim and bureaucratic slowness in the Conference on Disarmament and through the Convention on Conventional Weapons could facilitate a future Ottawa Process. It is unlikely that such factors will allow more than an increasing voice of NGOs and small and medium powers in conventional arms control. Comprehensive treaties stemming from such a process will either gain or lose credibility based on the long-term impact and vitality of the Ottawa Convention.
- 4) *Six weapon systems are currently threatened, but not seriously.* While these weapons seem to be the most likely targets for a future Ottawa-like process, the probability is not high given the nature of these weapons. These weapons in the rough order they are considered probable targets given their characteristics and the organizations that oppose them are as follows:

- Landmines
- Cluster Munitions
- Space Weapons
- Small Arms/Arms Transfer
- Laser Weapons
- Depleted Uranium

The DoD should continue to monitor the progress of the Ottawa Convention and its impact both on the arms control in the near term and in the long term. Additionally, it should keep a vigilance of the workings of NGO groups along with the interests of small and medium powers. Movement within DoD to work more productively with outside agencies is still in a nascent stage, and but such a change will likely challenge many organizational and cultural norms while it improves the Department's ability to function in its evolving international environment.



## **I. INTRODUCTION**

World dynamics are changing at such a rapid pace across a myriad of aspects that it is difficult for academics and policy makers alike to keep pace in the present and to anticipate the future with any degree of certainty. This uncertainty has led to errors in a lack of understanding and appreciation both of history and current world trends, and this paper seeks provide an analysis of current world trends in light of history.

Technological innovations provide society and the military with an ever expanding set of tools improving our quality of life while simultaneously improving our ability to end life and wage war. Improved technology and increased free trade with the world—along with other factors—have ushered in a period of unprecedented economic growth and prosperity in the US. At the same time we see a general distrust of our government and historically low turnout at the polls. Americans and individuals around the world are pushing for more pluralism and democracy at a global and national level. Our nation trusts government and policy elites less and wants more transparency and influence on decision-makers. This is reflected most clearly in the US with the voter initiatives at the state level and increased numbers and members of advocacy groups that are either single-issue or based on the interests of a single group. These organizations derive their political power by their ability to raise money and produce votes.

Not all Americans are satisfied with having just their basic needs as well as many comforts met; many are looking for justice worldwide within the humanitarian, environmental, economic, and political arenas. The problems facing our public today such as global climate change, child labor, or poverty cannot be confined within political borders. Multi-national corporations (MNCs) share economic income and expenses across borders. Air travel, television, and most recently, the Internet have opened up the world to Americans in a way that drives away isolationist fears. Americans appear to be shifting their paradigm about the world from a US-centric view to an individualist and global view. They see themselves as global citizens in a world that has the resources to sustain all people.

These ideas and the decreasing importance of political boundaries could only come with the advent of increased communication and information sharing brought on by the Internet. The Internet has provided an unprecedented means for interest groups to mobilize constituencies to set policy agendas. This was most recently evidenced by the demonstrations in Seattle that effectively attracted international attention and stalled World Trade Organization (WTO) negotiations. Protest organizers relied heavily on the Internet to quickly provide information and to coordinate efforts. The Seattle police were woefully unprepared for the well-organized group whose only major flaw was a lack of a

coherent, unifying message, as the coalition of labor, environmentalists, anarchists, etc. could only agree that globalization is harmful and should be resisted. Some there argued for the need to resolve the disparity in wealth between the wealthy and the poor nations. Such is evidence of a global worldview, as opposed to a state-centric worldview.

This global worldview started to become institutionalized recently through our world's premier intergovernmental organization (IGO), the UN. The UN Charter gives equal weight to the security of nations and people. But in an age of more civil wars than interstate wars, the use of national security as a useful paradigm is being questioned. The balancing act between a new global order and national sovereignty is an important conversation that we join today. In a fitting manner, the struggle over issues of national security versus human security met on the battlefield over a weapon that often both emphasizes national borders and causes fear and injury to civilians.

The systemic dynamics alluded to above provided the fertile soil for the so-called Ottawa Convention banning antipersonnel landmines. Comprised of a coalition of NGOs under the International Campaign to Ban Landmines (ICBL), the process leading to this Treaty (known as the Ottawa Process) surprised the world in 1997 by drafting, negotiating, and signing a major international arms control agreement within 14 months. This process caught both the US Government and the Department of Defense (DoD) somewhat by surprise as the normal diplomatic channels were circumvented, and the national security implications played only a minor part in the process. Is it possible that something has fundamentally changed in the perceptions of arms control in addition to a new setting and cast of characters? The Air Force must recognize and adapt to this changing international and domestic political context in which contemporary arms control negotiations are now mediated and could be mediated in the future as illustrated by the Ottawa Process.

I write this paper for Mr. Ken Chapman of the US Air Force's National Security Policy Division (HQ USAF XONP). He works as a contractor for the Air Force and handles conventional arms control for this division. He was closely involved with the confusion and political battles that ensued during the Ottawa Process within the Defense Department and among State, Defense, Congress, and the Clinton Administration. He is mainly concerned with what kind of lessons, if any, the DoD can draw from this experience. More specifically, he is interested in three questions related to the Ottawa Convention, which I try to address in this paper:

- 1) *What are both the likelihood of and implications of future arms control agreements negotiated in a like manner?*
- 2) *What issues are likely to form the future arms control agenda?*

- 3) *What strategy can the DoD/USAF adopt to deal with the increased influence of NGOs in order to advance a useful arms control agenda and prevent those that are not in US interests?*

Chapter II provides the background information that will develop the framework for understanding the case study, the findings, and the subsequent recommendations and conclusions. This framework will consist first of a brief description of the history of arms control and aspects contrasting between arms control of the past and arms control of the future. Following a general discussion of arms control, I move to the underlying international and domestic politics driving arms control under the heading moral globalization. The case study of the Ottawa Convention is the lens by which I hope to view some of the changing dynamics which will have an impact on the way arms control is defined and pursued, and additionally, the nature of DoD's role within this new dynamic.

Chapter III is on the form of future arms control hinging on whether or not the Ottawa Process is likely to be repeated again in the future. I develop a framework of deciding factors that lead to the success of the Ottawa Process and attempt to answer the question of whether its success can be replicated. I also address some of the unique aspects of the Process as well as the pros and cons of a future process with those characteristics.

Chapter IV is on the substance of future arms control containing analysis on six different weapon systems that are potentially threatened by a similar Process. I apply the framework developed in Chapter III as well as evaluate the relative attention these weapon systems have received in the newspapers over the past 10 years. The weapons that I examine are all either current or future weapons or policies including landmines, cluster munitions, space weapons, small arms and arms transfers, laser weapons, and depleted uranium.

Chapter V provides some general recommendations and conclusions to policy makers in the DoD and US government. These should be considered as a starting point for evaluating current policies and strategies involving certain weapons, NGO relationships, and DoD's role in domestic politics.

## **II. BACKGROUND**

In order to understand the future of arms control, it is essential to analyze its history and the world dynamics shaping both its form and substance. In the following section I trace the history and purpose of arms control as well as its current trends. After discussing arms control I move to a broad world dynamic that many have called 'moral globalization.' This dynamic, much of which can be understood through the human rights movement, covers many interrelated events and new stakeholders that must be understood as a backdrop to the case study. These first two sections describe roughly parallel structures: one focused on state interests, the other on individual interests. While the traditional purpose of arms control is to enhance national security, the purpose of moral globalization or human rights is to enhance individual security. In the final section of this chapter I introduce a case study based on the *Convention on the Prohibition of the Use, Stockpiling, Production, and Transfer of Anti-Personnel Mines and on their Destruction* to be referred to hereafter as the Ottawa Convention. The surrounding events are loosely referred to as the Ottawa Process, which is best understood as the nexus between arms control and human rights.

### **Arms Control**

Efforts to limit the potential destruction among nations began more than 2,500 years ago with restrictions placed upon the building of fortifications. Mankind continues these efforts alongside the development of weapons of greater lethality and in greater quantities. Arms control, as it is used today, has largely been understood within the context of the Cold War as treaties primarily between the two superpowers, the US and the USSR. These treaties mainly focused on some aspect of strategic nuclear weapons and, for the most part, each involved only the US and the USSR in their original forms.<sup>1</sup>

In 1961, Thomas Schelling and Morton Halperin originally defined the term 'arms control' in *Strategy and Arms Control* as "all the forms of military cooperation between potential enemies in the interest of reducing the likelihood of war, its scope and violence if it occurs, and the political and economic costs of being prepared for it."<sup>2</sup> Jeff Larsen gives a narrower and more practical definition of arms control in *Arms Control Toward the 21<sup>st</sup> Century*: "...a process involving specific, declared steps by a state to enhance security through cooperation with other states."<sup>3</sup> The objectives of arms control are to reduce the likelihood of war, reduce the cost of preparing for war, and reduce the damages should war occur.<sup>4</sup>

Current perceptions of arms control could be characterized as limiting the production, testing, stockpiling, use of weapons of mass destruction (WMD) and their delivery systems: nuclear, biological, and chemical weapons. These treaties gain the most attention from the media, public, and DoD because the wide-scale use of such weapons carries potentially catastrophic consequences. However, certain conventional weapons have been banned over time as well: the crossbow, dumdum bullets, blinding lasers, and most recently, antipersonnel landmines (APLs). Recent restrictions on the employment of conventional weapons can be seen in the Conventional Forces in Europe (CFE) treaty and the Convention on Conventional Weapons (CCW).

In the concluding chapter of *Arms Control Toward the 21<sup>st</sup> Century*, Jeff Larsen identifies several themes and trends in arms control, four of which I would like to highlight. *First*, multilateral discussions and unilateral announcements will replace the familiar bilateral negotiations.<sup>5</sup> This movement away from bilateral negotiations post-Cold War shows a paradoxical trend in opposite directions. This trend shows a simultaneous shift both towards greater and less international cooperation, especially as the US is making unilateral announcements while the rest of the world engages multilateral discussions. To understand this phenomenon, a broader context of an international paradigm is helpful. Most nations prefer to understand the world as multipolar. Even though the US has unrivaled economic, political, and military power, what is perceived and acted on is actually more important. The US will continue to make unilateral declarations, and this will continue to fuel perceptions of US hegemony. Other nations who consider themselves "poles" in a multipolar world, such as China and Russia, may make unilateral declarations similar to the US. These nations are sensitive to simply following US example as that would reinforce the perception of the US in a leadership role. The multilateral discussions diffuse actual power relationships by allocating each state a single vote, which enhances the influence of less important nations and decreases the influence of the great nations. From a US perspective, world and domestic opinion provides a significant incentive to participate in these discussions.

*Second*, Larsen states that without any reciprocal efforts at disarmament, the major powers will no longer be able to shape the international system or to get agreement on nonproliferation regimes.<sup>6</sup> This follows the first trend and is a sense of frustration for the US. This frustration stems from differences in ideology at the domestic level. The Senate's failure to ratify the Comprehensive Test Ban Treaty (CTBT) on October 13, 1999, by a vote primarily down party lines at 51 to 48 illustrates these differences. This destroys credibility in the international arena and erodes trust with both allies and adversaries. The executive branch faces diminished power to negotiate international agreements because of partisan politics that allow little room to maneuver and little credibility to follow through with promises. The positive side to this is that the executive branch is then free to use

the Congress as a negotiating asset because it can rightly claim that unless certain criteria are met, the Senate will fail to ratify the agreement. The US faces increasing opposition (from small and medium powers, NGOs) to its expectations of other nations given a perceived US unwillingness to make concessions in the strategic realm or even in the conventional realm.

*Third*, the end of the Cold War allowed for an increase in the scope of arms control.<sup>7</sup> While proliferation of WMD continues to be one of the major international security concerns, arms control is slowly expanding not into new areas but into greater depth. The realm of conventional weapons controls has seen some interest and wider participation. While the scope of arms control is more dependent on technological advances, this wider participation has fueled an increasingly blurred line between arms control and humanitarian law.

*Fourth*, while the scope of arms control has been increasing, public perception of its importance has been decreasing in the US.<sup>8</sup> Defense and foreign policy have taken a lesser role in public debate in the shadow of education, tax cuts, health care, and social security policy in the 2000 Presidential campaign. This is simply a reflection of the American public who ranked education, the economy, social security, crime, and health care considerably more important in this Presidential election than defense and foreign policy in July 2000 polls.<sup>9</sup> Arms control, as a small subset of defense and foreign policy, has by default declined in importance.

To understand what is behind these trends in arms control, the international and domestic political context shapes the environment in which arms control takes place. Each of these provide the reader with a better frame to understand the changing face of arms control and to provide clues to how much this will effect future arms control negotiations. Globalization is an inexact concept roughly referring to the increasing interdependence of states and the increasing power and sophistication of non-state actors such as multi-national corporations (MNCs), intergovernmental organizations (IGOs), and non-governmental organizations (NGOs). These trends in interdependence profoundly affect the international political context and have split the US politically. Among the most influential of these trends in the arena of arms control is the concept of moral globalization.

### **Moral Globalization**

The idea of moral globalization can best be defined as a shifting worldview towards a global civil society where the moral universe is inclusive of all individuals without deference to borders between states. This dynamic runs parallel to the political-economic phenomenon of globalization. After briefly introducing globalization in general, I will explore three areas that do not fully encapsulate moral globalization but reflect this dynamic. 1) You can see moral globalization in the

increasingly robust international human rights regime that has evolved since the end of World War II. 2) Trends show a decreasing deference to state sovereignty and an increasing focus on human security. 3) Moral globalization has even had an effect on the US government through the increasing democratization of foreign policy.

### **Globalization**

Since the end of the Cold War and the fall of communism, the world has transitioned from a bipolar world into either a multipolar or unipolar world, depending on your perspective. Thomas Friedman, in his book entitled *The Lexus and the Olive Tree*, describes globalization as the new international system that replaces the Cold War system. He describes the different structure of this globalization as built around three overlapping balances.<sup>10</sup> These are the familiar balances between nation-states, the balance between states and global markets, and the balance between states and individuals.

The international political context could be described as moving towards integration and globalization. With that comes the declining role of national boundaries and state sovereignty as international institutions begin to wield more power and influence. These institutions (IGOs, NGOs, and MNCs) compete with states in a pluralistic environment to influence international negotiations and agreements.

### **Human Rights**

The western human rights tradition is largely a product of the post World War II world. The pace and goals of regional and global human rights treaties have been preceded by the mission of the UN. The first lines of the Charter of the UN, which replaced the League of Nations as the primary international governmental organization, introduces human rights:

*We the peoples of the United Nations determined to save succeeding generations from the scourge of war...and to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small...*<sup>11</sup>

Following soon after the UN Charter and inspired primarily by the horrors of the Holocaust was the pivotal document in the international human rights regime: the *Universal Declaration of Human Rights* (UDHR) signed in 1948. Eleanor Roosevelt chaired the drafting of the UDHR, which defined both civil and political rights as well as economic and social rights. Because this was only a declaration and not a treaty or convention, it only states an aspiration and does not enumerate justiciable rights. It was followed by two conventions that were binding: the *International Covenant on Civil and Political Rights* (ICCPR) that the US signed in 1992 and the *International Covenant on Economic, Social, and Cultural Rights* (ICESCR) that the US has not signed. These two treaties have nearly universal approval that calls into question their impact given the nature of human rights



violations within signatory states. Although these might be considered the basic human rights documents, they are supplemented by declarations and treaties on discrimination against women (CEDAW), the rights of the child, the right to development, genocide, and regional conventions in Europe, the Americas, and Africa.

The United States has maintained a fairly consistent track record of making exceptions throughout both the human rights and the arms control traditions. Dating back to The Hague Convention banning expanding bullets (dumdum bullets) in 1899, the US joined the other great military power at the time, Great Britain, in objecting to those provisions.<sup>12</sup> The US has issued reservations and exceptions to almost every human rights treaty it has signed or ratified. The US practice of doing this has been coined as 'American exceptionalism' and has made the US an increasingly popular target for human rights activists who appeal to moral causes and despise political compromise. In this sense, the fact that the US refuses to sign the Ottawa Convention is not out of the ordinary. Far more extraordinary would have been a US signature with no exception or reservation made.

### *Trading State Sovereignty for Human Security*

The current international system of sovereign nation-states is a product of the *Peace of Westphalia* that ended the Thirty Years War in 1648. Before that, the international system had been torn apart by a century and a half of religious wars and consisted largely of an empire with warring factions. The *Peace of Westphalia* recognized the full territorial sovereignty of the member states of the empire, and they were empowered to enter treaties with one another. The sovereignty of about 300 princes replaced the central authority of the empire. For roughly 350 years, the international system has been comprised of sovereign nation-states maintaining a degree of order in an anarchic global system.

The UN Charter reflected this notion of sovereignty as admittance to the UN hinges upon the sovereignty of the state. The Charter lists seven guiding principles in Article 2, the first states, "The Organization is based on the principle of the sovereign equality of all its Members." The final one states "Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state..."<sup>13</sup>

The human rights treaties described in the preceding section largely came about through facilitation by UN organizations, member states, and NGOs. The ending of the Cold War allowed the UN to begin to act in ways to accomplish the mandate given in its Charter. Recently, this organization that was founded on the notion of state sovereignty introduced us to a new concept of 'human security' in the *United Nations Human Development Report* of 1994. Human development is a broad concept concerned with widening people's choices measured in three main areas: "to lead



long and healthy lives, to be knowledgeable and to have a decent standard of living.”<sup>14</sup> Human security seeks for people to exercise these choices safely and freely by providing safety from chronic threats and protection from sudden and harmful disruptions to daily life patterns. The seven categories of human insecurity listed are economic, food, health, personal, environmental, community and cultural, and political.<sup>15</sup>

Subsequent UN development reports describe how forces of globalization are putting new strains on human security as the threats of hunger, disease, and the consequences of repression cannot be contained or addressed solely within national boundaries. Also, civil wars, ethnic violence, and the uncertainty of the global marketplace increasingly threaten homes, jobs, and communities. Threats such as AIDS, drug traffic, terrorism, pollution, and nuclear proliferation transcend the concerns of individual nations, regions, or even continents. The *Human Development Report* of 1994 makes the bold statement that “It is now time to make a transition from the narrow concept of national security to the all-encompassing concept of human security.”<sup>16</sup> It calls for a shift in the concept of security involving both a shift from a focus on territorial security to focus on individual security and ensuring security through sustainable development instead of through armaments. An important point to remember is that many of these ideas of development can be found in human rights treaties, but the UN development reports are not binding in any way.

#### *Democratization of US Foreign Policy*

The argument that national security policy should be treated the same as other public policy has been made,<sup>17</sup> but Americans have traditionally placed national security policy on a higher plane as these policies determine US ability to defend against threats to its existence. That US foreign policy is a safe haven from partisan politics has never really been the case. However, tensions between the executive and legislative branches of government have been increasing in the foreign policy arena in recent years. That US foreign policy has been left to national security elites in government in whole up to the Vietnam War and in part until the end of the Cold War captures much of this trend, even as it downplays the greater complexity that exists. For some, foreign policy still remains the business of the President and his Secretary of State and should not become entangled with domestic politics. The once popular notion that domestic politics should stop at the water’s edge has become much less prevalent. I would like to highlight two observations. One is that the foreign policy of the US has become increasingly intertwined with domestic politics as evidenced most recently and most painfully in the Senate’s rejection of the *Comprehensive Test Ban Treaty* (CTBT) in 1999. The second is that foreign policy is no longer the exclusive domain of foreign policy elites in the US, as seen by the advocacy of MNCs and NGOs, located partially or primarily within the US.

*But in the current era, the lack of a plausible candidate for a single unifying value or a motive that should animate all American foreign policy greatly magnifies the difficulties of creating a coherent grand strategy. What we are likely to see, then, is quite familiar to students of American domestic policy--because neither any one interest nor the state itself is strong enough to impose coherent and consistent guidance, courses of action will be shaped less by a grand design than by the pulling and hauling of various interests, ideas, and political calculations. This is the model of pluralism, which although often criticized normatively or descriptively, is believed by most scholars to capture a great deal of American politics.*<sup>18</sup>

During the forty odd years of the Cold War, the nation presented a largely unified front against the threat of communism, although many debates ensued over what were the best policies to protect US interests. Trust in and deference to government suffered because of the back-to-back challenges of Vietnam and Watergate. In the past 10 years, Congress has again taken an increasingly active role in influencing the Administration's foreign policy. This can work to the favor of the US, but it often is a source of frustration and loss of trust within the international community.

That US foreign policy is increasingly accessible for those outside of government circles (NGOs, MNCs, individuals, etc.) is due to two factors. The first is the lack of consensus around a clear threat or role for the US in the post-Cold War world. Opinions lie on a scale between isolationists and activists. The second factor is the advent of the Internet and the speed with which information can be accessed and disseminated. Fax machines and email have decreased both the time and expense of the communication necessary for coordination of meta-organizations. The Internet has provided a centralized place for studies and information to be shared in a virtual forum for like-minded individuals and organizations. Individuals and organizations outside of the government have access to most of the information available to government employees and have gained a high level of sophistication as well.

The changes observed in the international political context can be better understood by taking a closer look at the changing domestic political context. Arms control as part of defense and foreign policy can be seen as becoming more transparent and open, and at the same time becoming more complex and uncertain. Combine this with an increase in pluralism, not only internationally, but within our own borders, and the realm of defense policy is no longer simply entrusted to the experts.

Each of these reflections of moral globalization in the US and internationally can be seen in the campaign to ban landmines. Elements of the treaty and its rationale closely resemble those in the human rights tradition. The treaty seeks to place the security of the individual above that of the state. Paradoxically, the weapon that is frequently used to protect national borders provides the battleground between the competing security concepts of states versus individuals.

## **Ottawa Convention**

On December 3-4, 1997, 122 countries signed the *Convention on the Prohibition of the Use, Stockpiling, Production, and Transfer of Antipersonnel Mines and on their Destruction*. As prescribed in the treaty, the Ottawa Convention entered into force, or became international law, on March 1, 1999, six months after the 40<sup>th</sup> nation deposited its ratification. As of February 12, 2001, 139 countries have signed or acceded and 110 countries have ratified, acceded, or approved the Ottawa Convention, becoming States Parties.<sup>19</sup> Controversy continues to surround this treaty for many reasons, foremost among them the rather glaring absence of support from three of the five permanent members of the UN Security Council: Russia, China, and the US. These nations, along with other non-signatories Belarus, Ukraine, Pakistan, and India, contain most of the world's stockpile of landmines.<sup>20</sup>

### ***Antipersonnel Landmines***

To understand how this treaty evolved, it is helpful to understand the nature of the military weapon involved. Antipersonnel landmines provide countries with a cheap weapon that can be used to kill or maim, or simply to deter or channel enemy infantry. They are often mixed in with antivehicle or antitank mines in order to prevent quick breaches of minefields. Mines have been used increasingly in the years following World War II, and were used extensively by the US in the Vietnam War. More recently, the US military used mixed systems in Desert Storm. In June of 1998, the DoD finished destroying 3.3 million mines from its stockpiles of two APLs: the M14 and the M16.<sup>21</sup> The M14 is activated by pressure of greater than 30 pounds, is designed to penetrate the human foot, and is seldom lethal.<sup>22</sup> The M16 is activated in a similar manner but is a bounding-fragmentation mine, meaning upon activation a charge sends it into the air where it explodes, providing a casualty radius of 27 meters.<sup>23</sup> The US now has approximately 1 million of these two types of mines stockpiled in Korea and a small number used in the United States for training in demining techniques. According to Human Rights Watch's (HRW's) 1,000-page Landmine Monitor Report 2000, the US APL inventory is listed in the following table:<sup>24</sup>

ADAM	9,516,744
Gator (USAF)	237, 556
Gator (USN)	49,845
Volcano	107,160
MOPMS	9,184
PDM	16,148
GEMSS	76,071
M14	670,000
M16	553,537
M18A1 Claymore	973,932
<b>TOTAL</b>	<b>12,210,177</b>

The US still maintains an inventory of scatterable APLs and mixed antipersonnel and antitank mines, both within the US and within NATO nations. Artillery, plane, or other propulsion devices can deliver these munitions. All of the APLs in the US stockpile belong to the Army, except for the Gator system used by both the Navy and Air Force. The vast majority of current US mines are Area Denial Antipersonnel Munition (ADAM) rounds that are contained in two different projectiles each containing 36 APLs. These mines are bounding fragmentation mines with self-destruct times of either 4 or 48 hours.<sup>25</sup> The Volcano system uses modified Gator mines described at the end of this section and consists of either 5 AT mines and 1 APL or 6 AT mines and no APLs. The MOPMS system involves a man-portable mine dispenser containing 17 AT mines and 4 APLs. The Gator system used by the Air Force consists of a dispenser (CBU-89/B) with 22 APLs (BLU 92/B) and 72 antitank mines (BLU 91/B) and is compatible with USAF A-10, F-4, F-15, F-16, B-1, and B-52 aircraft.<sup>26</sup> The 'smart' mines that the US has developed self-destruct after a period of 4 hours, 48 hours, or 15 days. The weapons that fail to self-destruct by their set times are rendered benign in 90 days by a limited battery life that serves as a backup system.<sup>27</sup>

#### ***Convention on Conventional Weapons (CCW)***

Movements to restrain the use of landmines began in the 1970s, and this resulted in a series of international treaties seeking to reduce the negative impacts of landmines. On October 10, 1980, the *Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects*, commonly referred to as simply the CCW, or the Inhumane Weapons Convention (IWC), was opened for signature in Geneva. This treaty and its three original protocols entered into force on December 2, 1983, and

covered the use of non x-ray detectable fragments (Protocol I), landmines and booby-traps (Protocol II), and incendiary weapons (Protocol III). Currently 84 nations have ratified this treaty, including the US who has also ratified Protocols I, II and Amended Protocol II. The US has not ratified Protocol III and maintains the right to stockpile and use such weapons.<sup>28</sup>

In October of 1995 at the 8<sup>th</sup> Plenary Meeting of the States Parties, Protocol IV on blinding laser weapons was opened for signature. Although this Protocol entered into force in July 30, 1998, the US has not yet ratified it. States Parties, recognizing the need to improve upon Protocol II, convened a CCW review conference that concluded on May 3, 1996. Part of the work accomplished at this negotiation was an Amended Protocol II of the CCW, which the US ratified on May 24, 1999.

After the CCW meeting in 1996, representatives from several small and medium powers including Austria, Belgium, Canada, Denmark, Ireland, Mexico, Norway, and Switzerland, met together based on their common disappointment in the lack of progress with the CCW and a disillusionment with US leadership on the APL issue.<sup>29</sup> Out of this frustration at the limitations of both the US and the CCW, the campaign to ban landmines was born.

#### *Evolving NGO Interest and Activity*

NGOs are not new on the scene by any means, but their proliferation has been hastened by the increasing number of democracies since the end of the Cold War. The International Committee of the Red Cross (ICRC) has been involved in the formation of international humanitarian law (IHL) almost since its inception in 1863. It got its start caring for injured soldiers in Europe.<sup>30</sup> While NGOs traditionally maintain their legitimacy by not being tied to government monies, the ICRC receives a majority of its funding from public sources.<sup>31</sup>

Behind the progress with the various treaties restricting the use of landmines, a collection of NGOs was active in advancing this issue. Many NGOs got directly involved as they provided humanitarian assistance to nations clearing minefields, unexploded ordinance, or providing medical assistance. Vietnam Veterans of America Foundation (VVAFF), working with amputees in clinics in Vietnam and Cambodia in the late 1980s and the early 1990s, decided that a more efficient way of helping these countries was to eliminate a major source of the humanitarian problem: antipersonnel landmines.<sup>32</sup> Other NGOs working in war-torn nations constantly faced the risks of landmines, and an increasing number of individuals working in such capacities became crippled as a result.

The movement took on a degree of formality in October of 1992 as the following groups came together to formalize the International Campaign to Ban Landmines (ICBL): Handicap International (HI), Human Rights Watch (HRW), Medico International (MI), Mines Advisory Group (MAG), Physicians for Human Rights (PHR), and Vietnam Veterans of America Foundation

(VVAF).<sup>33</sup> Jody Williams of VVAF became the coordinator of ICBL and in 1997 would become the co-recipient of the Nobel Peace Prize for her work on banning mines.

These international groups communicated internally mainly with the use of fax machines, email, and the Internet. This provided inexpensive and expedient information flow, allowing a smaller core of those working full-time to orchestrate this international movement. Much attention has been given to the use of email and the Internet in the success of this campaign, and this certainly made internal communications and information sharing much faster. But while much of their internal communication was electronic, external communications relied heavily on personal contacts and relationships.<sup>34</sup>

### *The Treaty*

*The Ottawa treaty may well set a precedent for future arms control negotiations undertaken by like-minded states. The treaty may also serve to reinforce the humanitarian law principles that parties to an armed conflict do not possess an unlimited right to choose their methods or means of warfare and that a distinction must be made between civilians and combatants.*<sup>35</sup>

The Ottawa Convention itself leaves much room for criticism in content, or lack thereof. One army colonel described it as "a Frankenstein treaty, with parts taken from other treaties and it has now become a monster."<sup>36</sup> One common criticism is the fact that the treaty does not contain any mechanisms for verification and compliance. Such measures are not likely to be included in the future, as it would require reopening the whole text for negotiation, which the ICBL coalition would not survive.<sup>37</sup> The treaty seems to have had some success within individual countries, but landmines continue to be used extensively by both sides in the Russian military's campaign in Chechnya and were used by Serbian and KLF forces in Kosovo in 1999. The decreasing numbers of production, stockpiling, transfer, and use cannot be fully attributed to the Ottawa Convention, although the magnitude of the influence is difficult to disaggregate from the effects of the CCW and unilateral actions by the US.

### *International Politics*

*The ICBL was composed of over 1,000 NGOs from over 60 countries. It is a good example of what has been dubbed 'global civil society'--a network of social groups and organizations that transcends national boundaries. It is a loosely organized and unstructured network--with only a handful of key full-time and paid activists--that draws on the resources, both financial and human, of a broad spectrum of member organizations interconnected by fax machines, the Internet, periodic conferences, and a common goal.*<sup>38</sup>

The issue of APLs really had a difficult time making its way into the international eye. The deaths and disabilities caused by APLs were and are appalling, but the issue just was not "sexy" compared to the issues surrounding WMD.<sup>39</sup> However, because the numbers of casualties from APLs is greater than from all WMD combined, they have been described as "weapons of mass destruction

in slow motion."<sup>40</sup> The campaigners had to find a way to put this issue on the international agenda, and they both actively pursued and stumbled onto, key components that brought the spotlight onto the landmine issue. Diana, Princess of Wales, probably did more than any other one person did to focus attention onto the issue. Her popularity and international following placed her in a unique position to have a dramatic effect on world opinion. During the year preceding her death, she crusaded for a mine ban, but her main contribution was gaining the attention and sympathies of the world, and more specifically that of Great Britain. Her death on August 31, 1997 did not slow down the ICBL but acted more as a catalyst to promote the successful negotiation in Oslo and signing of the Convention in early December of that year.

### *US Governmental Actions*

The US government took the lead at the beginning of the movement by calling for an international ban in 1996. Shortly thereafter, the ICBL accused the US of abdicating its leadership for not pushing for a complete ban (which the US did not consider either a likely or a desirable goal in the immediate future). Before the ICBL existed, Tim Reiser, a senior staffer for Senator Patrick Leahy (D-VT), worked with individuals from mine ban groups to have the US lead the way in a total ban on AP mines.<sup>41</sup> These efforts resulted in the US Congress passing a one-year export moratorium on AP mines in 1992.<sup>42</sup> In 1993, the Senate unanimously agreed to an extension of that moratorium for three years. In 1996, the US unilaterally ended its use of non-self-destruct APLs except in Korea. In 1997, the Clinton administration adopted the moratorium as US policy, currently extended through 2002.

In 1994, through pressure from the Pentagon and in an effort to appease all parties, Clinton announced a policy to promote the use of self-destruct mines, to limit use of non-self-destruct mines, and to develop alternatives to APLs. This policy preceded negotiations in Vienna to amend the 1980 CCW, where the US was successful in negotiating the exceptions necessary for security requirements. The following year, Senator Leahy sponsored an amendment that would impose a moratorium on the use of APLs for one year beginning in 1999, except along international borders and DMZs. This amendment passed the Senate, and Clinton signed it into law on February 12, 1996. The US announced a stockpile cap at current levels in January of 1997, although the US has not produced any APLs since 1996. The US has not used APLs in combat since 1991 in the Gulf War. By 1999, the US had removed all mines from around its base at Guantanamo Bay, Cuba.

Current US landmine policy is driven by Presidential Decision Directive (PDD) 64 of June of 1998, which states that the US will sign the Ottawa Convention in 2006 if suitable alternatives are developed and fielded and that the US will discontinue any use of APLs outside of Korea by 2003. The directive by President Clinton was probably well intentioned but does not carry much legitimacy.



Also, the US cannot technically *sign* the Convention, since it has already entered into force, but must *accede* to it, which means Senate ratification. In the context of the Senate's recent failure to ratify the Comprehensive Test Ban Treaty (CTBT), the likelihood of the ratification of the Ottawa Convention seems low in the near term.

The US leads the world in funding and training for humanitarian de-mining and led the world in a unilateral moratorium on the export of APLs in 1992. The US has unilaterally addressed the humanitarian aspect of landmines, but these efforts have earned the US only constant pressure and criticism from allies, small and medium powers, and NGOs for not expediently pressing for a comprehensive ban. The US continues to push for a ban on the transfers on APLs through the Conference on Disarmament (CD) which includes many of the nations not party to the Ottawa Convention.

### ***DoD Reaction***

Those most prominent in the DoD community on this issue are the Secretary of Defense (SecDef), Joint Chiefs of Staff (JCS), and generals both active duty and retired. The DoD has been successful in rebutting much of the ICBL's efforts to ban APLs. Throughout the Ottawa Process the DoD has provided the public with a wide range of comments concerning APLs. Unfortunately, most of the statements were made defensively and the agenda was being controlled by the ICBL. The DoD had to fall back to winning only certain battles instead of planning for a successful "war" or working cooperatively with the ICBL.

The DoD played an important role from behind the scenes—even with its somewhat delayed entrance and mobilization. The Department did not take seriously the onslaught from the well-organized coalition seeking the ban on landmines.<sup>43</sup> The DoD had wanted two major exceptions to the Convention that were rejected: one for mixed systems and the other for a transition period. US mixed systems were entirely of the 'smart' mine variety and were not contributing to the humanitarian problem. The DoD needed a transition period to develop suitable alternatives to a weapon system that was integral in the defense of South Korea. The US considered Korea a unique situation for a number of reasons: 1) US presence by international mandate; 2) heavy population density along DMZ; and 3) large numbers of North Korean infantry and artillery.

The key judgment that needs to be made is whether or not the military utility of APLs outweighs the humanitarian cost of their continued use. The ICBL claims that the humanitarian cost is much higher, and the DoD claims that their mines are not contributing in any way towards the humanitarian crisis. The ICBL is correct, and the DoD is mostly correct. US mines in and of themselves do not contribute to the humanitarian problem, but the US draws world attention and often spawns reciprocal measures from the countries in the world that try to mimic US success. US DoD



maintains self-destruct mines because they have the technology and the resources to produce them. The dumb mines provide a similar military utility at a much lower cost. From the third world perspective, this is another US effort, much like international environmental movements, to ensure the relative powerlessness of less developed countries.

If in 2006 the US does accede to the Ottawa Convention, the most important consideration is the legitimization of a new way of doing business. Since US accession is not likely in the near term, looking at the likelihood and implications of a future Ottawa-like process might provide insights for those interested in the future of conventional arms control. The case study of the Ottawa Convention is not important in and of itself for US national security interests. Whether or not the treaty is signed and ratified by the US, it will not directly affect US security policy at the macro level. However, this case illustrates vividly the changing nature of state and non-state actors and how trends in globalization affect arms control politics both at the domestic and international level. In the next chapter I will look at the likelihood of a similar occurrence in the future and what it might mean for the way the DoD approaches arms control.

### **III. IMPLICATIONS FOR THE FUTURE FORM OF ARMS CONTROL**

An understanding of the international system in the current era of globalization that recognizes sovereign states as the only legitimate actors is a simple and misleading notion. Following close on the heels of the boon of economic globalization and MNCs is a movement of moral globalization and NGOs.

*In general, theoretical approaches to explain international cooperation provide little specific insight into the nature and function of NGOs. Most are based on the state as the only noteworthy entity in international cooperation, and provide no category for considering the possibility that NGOs are significant actors in their own right.<sup>44</sup>*

In an increasingly interconnected and interdependent world the forces of moral globalization are influencing decisions on many issues, including arms control. Largely seen as a threat, especially to those in the DoD, these NGOs have attained a level of sophistication, wealth, and influence that makes them increasingly important for those in the DoD to understand.

#### ***Different Perspectives***

A combination of different backgrounds and motivations provides the two sides in the landmine debate with different perspectives. Many of the leaders in the US Campaign to Ban Landmines (USCBL) got their start protesting the Vietnam War. Jody Williams began her career protesting the War and then worked in Central and South America mainly in opposition to US policies there under President Reagan. On the other side of this issue, many of those in the DoD fought or participated in the Vietnam War in some capacity.

The ICBL looks at the Ottawa Convention as a humanitarian treaty and the DoD considers the treaty to be an arms control treaty. Neither side is incorrect as the Convention attempts to limit the continued use of a weapon that has high humanitarian costs. The treaty both bans a weapon and lowers humanitarian casualties (the same can be said about the Chemical Weapons Convention (CWC) and the Biological Weapons Convention (BWC)). Pro-landmine forces have stated that maintaining landmines in Korea is of humanitarian interest because deterring a North Korean invasion saves many civilian lives.<sup>45</sup> Given the volatility of the Korean border, any change in US/ROK defenses might be interpreted as enough of a weakness for the DPRK to initiate an attack.

The differing perspective of an arms control treaty versus a humanitarian treaty also involves a difference in the desired outcome. Arms control treaties are not an end in themselves, but are intended to enhance a state's security.<sup>46</sup> Humanitarian treaties directly address a humanitarian issue. Landmines are essentially a defensive weapon, and the US is expected to increasingly use mobile forces in near-term conflicts. These two facts serve US interests in the case of universal compliance.<sup>47</sup> A ban on the use of landmines does not affect US national security substantively, but

from an arms control perspective, the Ottawa Convention holds little merits for US approval, as universal compliance is not likely. In defense of the ICBL, their intention was always focused on the humanitarian issue, but they argue that the treaty would not harm the security of states. However, NGOs are not responsible for national security, and the ICBL had the luxury of focusing all of its energies on the humanitarian side.

As a humanitarian treaty, the Ottawa Convention has more credibility as a useful international instrument. The problem is that civilians are being maimed and killed by mines left long after wars have ended. These munitions also have an economic dimension as they deny the use of land for agriculture and other development, and they can delay or prevent the return of refugees to their homes. The Ottawa Convention came about while focusing on landmine removal, and the NGOs came to the realization that the removal of landmines is only putting a patch on the humanitarian situation. Landmines were and still are being laid at a faster rate than they are being removed. While the elimination of the use of all landmines is part of the goal, those pushing the ban acknowledge its limitations: "...such a law might not entirely eliminate the use of mines, it would stigmatize them in much the same way that chemical weapons are now vilified."<sup>48</sup> Landmines, much like chemical and biological weapons, will probably never be completely eliminated due to the great expense and complication of verification and compliance regimes and the small expense associated with acquiring and using mines.

#### *CD / CCW vs. Ottawa Process*

Before going into a discussion of what arms control will look like in the future, the existing models should be compared. Three basic models exist currently as to the types of arms control agreements: bilateral, multilateral, and Ottawa-like processes. The decision to place Ottawa in a category by itself stems from its departure from the institutional frameworks. The bilateral agreements have largely consisted of US-USSR, now US-Russia agreements such as the START treaties that are entering into their third iteration. These agreements almost entirely revolve around nuclear materials and will not be addressed in this paper. The Conventional Forces in Europe (CFE) Treaty would probably be considered bilateral (even though it originally included 22 nations) because it was conducted between NATO and the Warsaw Pact.<sup>49</sup> As the international political context that gave rise to CFE is no longer present, this paper will not seek to include analysis of that case either. These two other models for international arms control negotiations have little in common with each other besides similar goals. The CD and the CCW represent the institutionalized multilateral processes, while the Ottawa Process represents a new model with unique characteristics. The major differences among the three are summarized in the following table:

	<b>Conference on Disarmament (CD)</b>	<b>Convention on Conventional Weapons (CCW)</b>	<b>Ottawa Process</b>
<b>Purpose</b>	Negotiate Disarmament Issues	Provide Framework for Conventional Arms Control	Ban Antipersonnel Landmines
<b>Inception</b>	1979 <sup>50</sup>	1979	1996 <sup>51</sup>
<b>Membership Size</b>	66 States <sup>52</sup>	75 States	139 States
<b>Decision-making</b>	Consensus	Consensus	Two-thirds Majority
<b>Scope</b>	Any Disarmament Issue <sup>53</sup>	Any Conventional Weapon <sup>54</sup>	Only Antipersonnel Landmines
<b>Leadership</b>	Nuclear Weapon States	Major Powers	Small and Medium Powers, NGOs
<b>Pace of Work</b>	Past: Bureaucratic pace; Current: Stalemate	Bureaucratic Pace	Fast-track Schedule
<b>Mandate/ Authorization</b>	The UN General Assembly, Member States	The Treaty Text and States Parties	The Treaty Text and States Parties

Many see inherent problems with the nature of the CCW and most agree that an alternate forum could handle issues not seriously impacting national security. Mary Wareham, senior advocate in the arms division of Human Rights Watch, described the CD as “a graveyard” and full of the “walking dead.”<sup>55</sup> A State Department official acknowledged that the CD has been in deadlock for the past three years.<sup>56</sup> Others see no reason why arms control should be the exclusive domain of the CCW:

*There is no reason why global arms control problems should be dealt with in only one international forum, while global economic or environmental problems can be taken up in a wide range of fora.<sup>57</sup>*

The major problem with the CCW is also its major advantage: its consensus decision-making. While the Ottawa Process sought to solve a problem by ignoring the concerns of those causing the problems, the CCW forces its members to reach agreement. This has the advantage of taking into consideration the concerns of all members, but it has the disadvantage of allowing a single nation or small group of nations to prevent any agreement. The Ottawa Process has the advantage of being both more inclusive and more rapidly achieving agreement. Whatever the merits or downfalls of these two alternatives, only one model has been tested by time: the CD and the CCW. While the viability of a subsequent Ottawa-like process will become clearer as time passes, conclusions from information currently available provide insight into future viability.

Given that something resembling the Ottawa Process might again rise to address a peripheral issue, understanding the important characteristics of a future Ottawa-like Process is valuable for the DoD and the USG. These would likely include small and medium power leadership, fast-track negotiations, ad hoc coalitions, and a forum outside of regular diplomatic institutions.

### *Unorthodox Diplomacy*

These characteristics made the Ottawa Process unique. *First of all*, small and medium powers took the lead, in particular, Canada and Norway.<sup>58</sup> The US had claimed early leadership on this issue, leading the world in humanitarian demining assistance and enacting the first export ban on landmines. However, the US, Russia, and China had little to no influence on the Ottawa Process. This lack of powerful opposition paved the way for the rapid diplomacy of the Process as the concerns of the major powers did not have to be addressed. These concerns could generally be understood as national security issues. Paradoxically, the most powerful nations on the planet were the most concerned with security while the smaller and less powerful nations put aside any national security concerns. This can be partially attributed to the commitments of the major powers to protect their weaker allies, most of which have become parties to the Ottawa Convention. The major powers understand the importance of backing up diplomacy with force, not elusive moral claims.

*Second*, the negotiations were conducted on a fast-track schedule.<sup>59</sup> Again, the Ottawa Process saw the drafting, negotiating, and signing of a comprehensive treaty banning a widely used weapon in 14 months. Thought impossible by most, including those directly involved in the Process, the fast-track schedule was made possible through the simplicity of the message and the like-mindedness of the participants. Conceived under the shadow of American exceptionalism that has been a common trend in the human rights tradition, the ICBL sought a simple ban with a campaign slogan of 'no reservations, no exceptions, no loopholes.'<sup>60</sup> Combine the simple treaty with a collection of states that agree to the ban, and the potential for the treaty to get mired in bureaucratic or political maneuvering is virtually eliminated. The idea was to establish a ban, then include dissenting nations by pressure tactics instead of including their concerns or relative international power dynamics in the original treaty text.

*Third*, the core group of pro-ban states was cross-regional and represented diverse interests and views.<sup>61</sup> The truly amazing thing about the Ottawa Process is that this group of states and NGOs all place the landmine issue ahead of competing issues to work towards a ban. The treaty united diverse groups against both the terror of APLs and American exceptionalism. Some see this movement as at least partially an effort to level disparities in military strength in a system where the United States has unrivaled military superiority.

*Fourth*, these smaller powers conducted the Process outside of the regular diplomatic channels, which in this case would have either been the CCW or the Conference on Disarmament (CD).<sup>62</sup> The CD and CCW have sources of legitimacy and an ability to achieve results that seem to be important criteria with which to evaluate them. The Ottawa Process claimed legitimacy because of the failure or inability of the CD and CCW to achieve results in an expedient manner.

### *Pros and Cons of a Future Ottawa-like process*

The number one positive aspect of the Ottawa Process was the speed in which an agreement was reached. This allowed for faster action towards resolving an ongoing humanitarian problem. A couple of aspects of the Process allowed it to work so rapidly. Probably the most influential was the simplicity of the driving force behind the Process. Ban landmines completely, no exceptions. Governments knew that the Process was leading to a comprehensive ban, and the NGOs tenaciously held on to this important aspect. This is one of the reasons they dismissed the US's list of five non-negotiable concerns that had to be addressed. They were out of place in the context of a ban treaty.<sup>63</sup> The other factor greatly facilitating the speed of the process was requiring only a two-thirds majority to make decisions. The consensus decision making of the CCW allows one nation to wield veto power. The US was unable to threaten to withhold its vote because its vote was not necessary. This environment of having the US negotiate on equal footing with the various other states proved difficult for the US as it navigated unfamiliar terrain.

One negative aspect of the Ottawa Process derives from the crusade-like pursuit of the ban. The decision to pursue a landmine ban came from a desire to eliminate the 'silent killers' that the ICRC estimates maim or kill 26,000 people every year, most of whom were women and children.<sup>64</sup> The difficulty with crusades is that the moral outcome is decided before reaching the negotiating table and no room is left for compromise. While crusades may be value neutral of themselves, the dogmatic pursuit of one particular solution to a problem leads to a refusal to acknowledge other solutions or accept partial solutions. These non-negotiated ultimatums will not stand the test of time because they were made without considering a range of state concerns.

Another downside is the level of NGO involvement in the Ottawa Process. While those in the US military welcome and work alongside those NGOs who are actively involved in solving problems on the ground, the advocacy groups cast blame without offering acceptable alternatives. In the words of an Army colonel who worked closely on the issue, "The ICBL never took a single landmine out of the ground" and offered no programs to do so.<sup>65</sup> And while governments ideally represent all of the people, NGOs represent only interest groups or particular agendas. The cases where NGOs represented countries in the Ottawa Process cannot be repeated with the Process retaining credibility. This kind of excessive role for NGOs, even with declining state sovereignty, seeks to usurp the role of states that exist for the common good of their nation. No international institution exists as of now with the same level of legitimacy as the nation-state, nor is the United Nations, any other IGO, or NGO likely to do so for some time or ever.

### *Deciding Factors, Past and Present*

It is with a certain degree of humility that I attempt to shed some light on the form of future of arms control as opposed to humanitarian law given the domestic and international political context discussed in the previous chapter. By form of future arms control, I am specifically referring to the forum in which future conventional arms control treaties will be drafted, negotiated, and signed. The two contenders for this are the CD / CCW or something similar to the Ottawa Process discussed in the previous section. While it is possible that a third option could be envisioned, but no information is currently available to lend credibility to such an option. The CD or CCW can be thought of as the default conventional arms forum in our present system, and other approaches would somehow circumvent this status quo. The first question I would like to address then is whether or not the Ottawa Process is a wave of the future or an aberration that will not be repeated.

To determine the likelihood of a similar arms control treaty coming about in the same way, I will look at a number of deciding factors, the absence of any of which would have probably have derailed the Ottawa Process. Other groups have tried to replicate some of these factors applied to different weapon systems with little success to date in such areas as cluster munitions and small arms, and these will be discussed in the following chapter. The five factors that I find as necessary ingredients are stalemate or a slow process in the CD and CCW, a moral claim, a coalition of like-minded NGOs and States around a single issue, strong visual images combined with Princess Diana et al., and a convener.

**First, it was only through the failings of the CD and bureaucratic nature of the CCW that the space for the Ottawa Process was created.** With a functioning and legitimate CD, the need for a separate process is moot. I think this is the single most important indicator of the likelihood of another Ottawa-like Process, and this indicator grants legitimacy to alternate forums that will work.

The CD still remains deadlocked and unable to reach an agreement, and some have recommended that it should either be dissolved or be allowed to die a natural death by reducing representation.<sup>66</sup> Since 1997 the CD has struggled with even setting an agenda, which could indicate the need for a better process. The CCW still functions although no significant action in terms of amending or adding protocols has been taken since the Ottawa Convention. Even if a protocol covers a certain conventional weapon, the legitimacy can be claimed if the protocol is deemed to be too conservative and slow-moving, combined with a rationale for more immediate and ambitious action to address a situation.

**Second, a moral claim is necessary to justify the urgency in setting an arms control agenda or drafting an arms control agreement.** Using moral language allows the average person to understand and participate in the debate. This has contributed to the democratization of foreign



policy in general and arms control in particular as an increasing set of stakeholders express their values. The moral claim made against the use of landmines is both that the proportionality of their humanitarian costs far outweighs their military utility in the aggregate and that they are inherently indiscriminate weapons.

NGOs, academics, and others have advanced moral claims against several conventional weapons or certain uses of conventional weapons. As long as we have wars, we will have weapons, not the other way around. As long as we have wars, we will have those who oppose war, and failing to halt wars, will seek to limit the means by which it is pursued. These are moral crusades that are a part of the fabric of the political context both internationally and domestically.

**Third, a coalition of like-minded NGOs and states around a single issue provided the necessary resources and legitimacy to accomplish the goal of a comprehensive ban on a weapon.** Getting NGOs to work together is probably the single greatest feat of the ICBL. Because by their nature as organizations competing for the same resources, they often relate to each other as competitors. To bring all of these diverse NGO groups together, putting aside individual agendas in order to attack landmines en masse, is remarkable. The nature of the weapon itself provided the ICBL with the rallying power it needed because of their widespread use, simple solution, and opportunity for small and medium powers to act. Landmines had a stifling effect on almost any NGO working on the ground in developing nations, and often these landmines not only effected the security of the NGO personnel and those that they were trying to help, but it also contributed to the struggles with economic development. The simple solution of banning landmines completely was a solution that the average person could understand and did not take into account any of the actual complexities of the issue. An additional advantage to this that helped to bring small and medium powers to the table was that by outlawing this weapon they had the ability to weaken the US politically and possibly militarily. While never an explicit objective of the campaign, a thinly veiled frustration and concern about American power dominance undergirded the movement.

As far as uniting NGOs and small and medium powers again under one issue, I do not think that is likely. First of all, few weapons either in existence or planned have such a negative impact on people on an ongoing basis. Certain weapons do lend themselves to simple solutions such as comprehensive bans, and these weapons are considered in the following chapter. Several of the weapon systems explored later could be seen as distinctly American weapon systems. However, I think that the consideration that no other weapon is likely to be cited for such widespread humanitarian damages when compared to that of landmines.

**Fourth, strong visual images brought the horrors of landmine injuries into the living rooms of people around the world, and Princess Diana and others lent a combination of**



**legitimacy and a great deal of popular support to the movement.** Common in the human rights tradition is that while it is difficult to gain consensus around esoteric concepts like inherent human dignity, it is relatively easy to gain consensus around pain and cruelty.<sup>67</sup> All humans experience pain and cruelty in the same way regardless of cultural or ethnic differences. The cruelties of landmines, especially when their victims often included women and children vividly depicted a cruelty that people around the world could understand. Other arms control and disarmament organizations will face a similar difficulty in matching the dramatic case made for a ban on landmines through graphic images.

Archbishop Desmond Tutu and Pope John Paul II each advocated for a ban on landmines. Both of these individuals had a large personal following, and this was especially true in the case of Diana, Princess of Wales. In the final year of her life she took on the issue of landmines and focused the compassion of the world on the issue. Many people today associate the ban on landmines with Princess Diana and not to Jody Williams and the ICBL. In campaigns against other weapon systems, those wishing to mimic the magical quality that Diana brought to the campaign have sought a similar persona.

I would maintain that such an international persona does not exist today, and even if such a person were to arrive on the scene, it is hard to imagine them taking on an arms control issue in a meaningful way.

**Fifth, a convener, or a national leader who trades political capital to further the agenda is necessary to lend legitimacy, provide a vision, and a bridge between states and NGOs.** Lloyd Axworthy played this role in the Ottawa Process. "Moreover, courageous leadership was critical: the ban would not have been achieved—at least not with such spectacular speed—had Canadian Foreign Minister Lloyd Axworthy been unwilling to go out on a diplomatic limb."<sup>68</sup> In a dramatic concluding speech, Axworthy shocked those in attendance at the first Ottawa landmines conference on October 5, 1996, when he invited the international community to join Canada in negotiating and signing a ban on mines by the end of 1997.<sup>69</sup> With that speech he placed his and Canada's political capital on the line to give the movement legitimacy, a clear vision with a deadline, and gained the respect of the NGO community.

This factor is truly a wild card with respect to its probability in the future. Some maintain that Axworthy had sights set on a Nobel Prize, and such ambition might be a necessary ingredient of a similar convener in the future.<sup>70</sup> A related condition for such a person to use their political capital is that the issue needs to be developed enough to make it a profitable risk to take. So while the probability of a convener is unknown, the presence of the first two factors is likely and the presence of the second two factors is unlikely.

### *Aberration or Here-to-Stay*

As tempting as it is to make sweeping judgments about the radically new world that has put sovereignty aside to wholeheartedly embrace the agenda of altruistic NGOs, I do not think this is the case. Time will be the final judge, but the Ottawa Convention has yet to show its ability to convince or coerce those states with large stockpiles of landmines to eliminate their stockpiles and renounce the use of landmines. And, expectedly, the Convention has had no effect on the decisions of non-state actors to use the inexpensive weapon in their internal campaigns. If the Convention continues to struggle to achieve tangible results it may further dissuade the current campaigns against certain weapon systems. While those in the NGO community still consider the Ottawa Convention a resounding success, efforts to replicate this success should be expected. These crusades are likely to be repeated but will probably struggle to focus sufficient attention on the issue to place it on the agenda.

Some of the elements of the Ottawa Process are here to stay and some can be regarded as an aberration. The prominent role played by NGOs in every step of the process is likely to be repeated in future multilateral arms control agreements. Similar to the ICRC's permanent observer status within the CCW, other NGOs will be increasingly active in the established arms control fora. This increased role may lead to an increase in the attempts to circumvent the process as long as NGOs maintain their independence from states.

Subsequent Ottawa-like processes are likely for issues either not considered by the CD or CCW or issues that get caught up in political infighting that can block substantive progress. These processes are likely given that the political environment both internationally and domestically is moving towards a greater amount of pluralism and democracy. NGO involvement is increasing within the international community, especially as they fill the gaps in international governmental structures. However, given the presence of some and lack of certain other deciding factors discussed previously, the question will not be *if* these NGOs will have a significant impact in the arms control arena, but of *how much* and in *what way*.

Much of what transpired in the Ottawa Process was not the result of formal planning, but a sequence of events that happened in such a way as to maintain or increase the campaign's momentum. Given what I consider some of the necessary elements leading to the Ottawa Convention, such a Process is not likely to produce a major arms control treaty again in the future. My conclusion is based upon the findings above relating to the factors that allowed it to take place and the failing of the Ottawa Process to enfold the US, Russia, and China or the other nations that maintain most of the world's landmines.

While major conventional arms control agreements will probably not be outcome, the issues not addressed by the CD and CCW are likely to be taken up by NGO groups independently. This will flow naturally from these NGOs involvement in lobbying and campaigning in conjunction with the CD and CCW, a phenomenon that will increase in intensity as NGOs grow in their sophistication and continue to outmaneuver many governments with their positioning and use of information. Gordenker and Weiss make a similar pronouncement when discussing NGOs role in the international arena:

*Without attributing either a positive or a negative value to NGO activity, it can nevertheless be recognised as a factor in global governance. Yet this phenomenon, contrary to the conventional assumptions about the virtually exclusive role of governments in international politics, has not been fully described nor adequately encompassed in theoretical approaches.<sup>71</sup>*

Will future arms control agreements negotiated under an Ottawa-like Process benefit from the same expediency? Certain conditions need to be met, such as a simple purpose that the public can easily understand and support. Also, consensus decision-making in a large international gathering may become a thing of the past. These will not necessarily guarantee the speed of the process, but they did so in the case of landmines. If this expediency comes at the cost of moral crusades and an excessive role for NGOs in forming international agreements, then this kind of process is neither likely nor desired by the US government.

#### **IV. IMPLICATIONS FOR THE FUTURE SUBSTANCE OF ARMS CONTROL**

Given the limited range of the conclusions in the previous chapter, it would be useful to try to explore the likelihood that several current and future conventional weapon systems of DoD will come under attack in a similar manner as landmines. In order to do so, I would like to review post Ottawa Convention NGO activity and then rank several threatened weapon systems based on their likelihood of being banned in the future using the deciding factors of the previous chapter. Since a rapid ban is unlikely to be repeated, these weapons may face somewhat slower processes resulting in a range of outcomes from minor restrictions to comprehensive bans.

##### ***Post Ottawa Convention NGO Activity (1997-2001)***

The ICBL has been fairly active following the signing of the Ottawa Convention. Two annual conferences have followed its entry into force, one in Mozambique in 1999 and the most recent in Switzerland in 2000. While the issue of landmines has not been a priority issue for the DoD for several years, a push to have former President Clinton sign the Ottawa Convention in his final days of office threatened the weapon system once again.<sup>72</sup> The President deferred the decision to the incoming Administration in a press statement released his final day in office.<sup>73</sup> The issue maintains its salience mainly through the continued efforts of Senator Patrick Leahy of Vermont, who is expected to put pressure on the Bush Administration sometime in the near future.

The ICBL itself has been beset with some amount of controversy concerning the actions of its former coordinator and Nobel Peace Prize co-laureate, Jody Williams. She took her share of the prize money to write a book and the executive committee could not agree on what to do with the rest of the money. A large financial contributor to the ICBL, the Vietnam Veterans of America Foundation (VVAF) cut off relations with Ms. Williams and pursues its mine activities and advocacy apart from the ICBL.<sup>74</sup> While the ICBL will continue its work toward a complete and universal ban on landmines, they will not change their focus to address other issues. Many of the NGOs working for the ICBL have concerns specific to landmines and should not be expected to launch campaigns against other weapon systems. According to one consultant, VVAF considers landmines a special weapon and has no future plans to try to ban another weapon.<sup>75</sup> While the dollar amounts are unknown, the impression given was that without the financial backing of this particular NGO, the level of impact will be markedly less and other weapon systems will not be threatened.<sup>76</sup>

Other notable NGOs have ongoing campaigns against certain weapon systems or issues with the employment of certain weapon systems. The most important and the most internationally credible humanitarian NGO is the International Committee of the Red Cross (ICRC). This NGO is particularly of interest as it is the only NGO allowed "observer status" at the CCW, and the US has

fought to ensure that it maintains its status in that group even though they are often in disagreement.<sup>77</sup> Discussed briefly in an earlier section of this paper, the ICRC has a specific campaign that is called "The SIrUS Project."<sup>78</sup> SIrUS stands for superfluous injury or unnecessary suffering and used somewhat interchangeably with abhorrent weapons.<sup>79</sup> This project cites landmines as a specific case in regard to these kinds of weapons. "Buried or point-detonating anti-personnel mines are the only weapons in widespread use which cause specific and severe injury resulting in specific and permanent disability."<sup>80</sup> This concern with injury is derived from something of a customary law officially recorded in Article 36 of Protocol I of the Geneva Conventions of 1949 stating that a weapon may be declared illegal if it causes "superfluous injury or unnecessary suffering."<sup>81</sup> Given the subjective nature of determining the suffering a weapon may cause, this consideration is either not made at all or made in reaction to public outcry at a certain weapon.

### *Endangered Conventional Weapon Systems and Policies*

Given the conclusions of the previous sections and observing the activities of several NGO groups, I have evaluated six current or potential US conventional weapon systems or policies by the likelihood that they will be subject to international humanitarian law, human rights, or arms control in the near future. These weapons were selected because they have already faced some form of resistance from either international organizations or formal international agreements. They are also limited to the conventional realm, and it is beyond the scope of this paper to consider the implications for WMD.

The criteria that I use to evaluate them are a combination of the deciding factors present enabling the Ottawa Process detailed in the previous chapter. This guide for policy makers will shape the general recommendations in the final chapter. The rearrangement of these priorities should not effect the overall recommendations but could change the particular areas in which they are focused. I will make three additional qualifications before I begin. First, the Bush Administration will have undetermined impact on arms control policies in general. The Administration is likely to push verification and compliance issues on existing treaties rather than expanding the number of treaties.<sup>82</sup> Additionally, I cannot predict with any confidence the likelihood that any of these weapons will be used in a future conflict in which the US is involved, and weapons use may have a significant influence on the relative risk. Finally, some factors specific to one of these weapon systems may take the place of a factor specific to the Ottawa Process, and I will try to address those within each section. The following table roughly maps the characteristics of these weapon systems against the deciding factors in the Ottawa Convention:

	<b>CD/CCW Failing</b>	<b>Moral Claim</b>	<b>Ad Hoc NGO Coalition</b>	<b>Visual Images and Persona</b>	<b>Convener</b>
<b>Landmines</b>	x	x	x	x	x
<b>Cluster Munitions</b>	x	x			
<b>Space Weapons</b>	x	x	x		
<b>Small Arms/Arms Transfer</b>	x	x	x		
<b>Laser Weapons</b>		x			
<b>Depleted Uranium</b>		x			

Before discussing each particular weapon system, another potential metric is to examine how the public spotlight has focused on each of them in turn. The following table presents the periods and the trends in newspaper coverage of each weapon system over the past 10 years using Lexis-Nexis.<sup>83</sup> Of particular interest is the large amount of attention given to depleted uranium in the previous year and the concentrations of cluster munitions stories in the aftermath of Operation Desert Storm and the NATO air campaign in Kosovo.

	<b>Previous Year</b>	<b>Previous 2 Years</b>	<b>Previous 5 Years</b>	<b>Previous 10 Years</b>
<b>Landmines<sup>84</sup></b>	611	>1,000	>1,000	>1,000
<b>Cluster Munitions<sup>85</sup></b>	53	248	288	619
<b>Space Weapons</b>	9	18	69	296
<b>Small Arms</b>	134	338	880	>1,000
<b>Laser Weapons</b>	15	27	103	187
<b>Depleted Uranium</b>	535	661	776	887

### *Landmines*

The DoD should be primarily concerned with antipersonnel landmines. APLs still face opposition from the ICBL and the Ottawa Convention, in the Amended Protocol II of the CCW, and governments who have made efforts to have landmines addressed by the CD since before the Ottawa Convention.<sup>86</sup> The coalition of NGOs and small and medium powers that pushed the Ottawa Convention still exists and recently conducted its Second Meeting of the States Parties in September of 2000. While the withdrawal of the VVAF may have hurt the coalition financially and in credibility, efforts to curb landmines outlawed by the Ottawa Convention continue unabated. The exact number of NGOs supporting a ban on landmines may have changed slightly, but no information available suggests that the number has fallen below its 1,000 level of 1997. The number of states that are a party to the Ottawa Convention continues to increase as well and is currently at 110 with an

additional 29 that have signed but not yet ratified the Convention.<sup>87</sup> As I have spent a large amount of the paper so far discussing landmines, I will not take each attribute individually. Landmines also provide a sort of benchmark for the evaluation of the remainder of the weapon systems as this is the first case of its kind.

### *Cluster munitions*

Cluster munitions either launched from the air or the ground should be the second area of concern for the DoD. Two main problems exist for cluster munitions that make them such a popular target for criticism. First, in an age of precision munitions, these weapons are difficult to use in a discriminate manner, especially in populated areas. Second, they have a high failure rate that is about 5 percent.<sup>88</sup> This high of a failure rate is unacceptable for a military weapon.<sup>89</sup> HRW led the charge against this weapon system in the aftermath of the NATO air campaign in Kosovo in 1999 with a report entitled "Ticking Time Bombs: NATO's Use of Cluster Munitions in Yugoslavia." Subsequently, the ICRC has gotten involved in the issue and has pushed for a fifth protocol to the CCW addressing both cluster munitions and unexploded ordnance (UXO).<sup>90</sup> Because cluster munitions act similarly to landmines when they fail to explode on impact, they share many of the attributes of landmines except that cluster munitions are not in widespread use. "Cluster bomb submunitions, like antipersonnel landmines, therefore have the unique potential to injure and kill civilians both during and after a conflict—cluster bombs *despite*, and antipersonnel landmines *because of* their design."<sup>91</sup> This campaign mainly conducted by US-based NGO Human Rights Watch has not been able to capitalize on the visual images or an international persona to champion their cause. They also lack any kind of organization around this issue and a convener willing to take on the issue. They are not likely to come under attack until the US again faces a significant conflict as some kind of action would be necessary to spark sufficient political resistance.

### *Space Weapons*

After landmines and cluster munitions, the level of concern for DoD should be markedly less for the remaining weapon systems. According to the Outer Space Treaty of 1967, nuclear weapons and other weapons of mass destruction are banned from space along with military installations and maneuvers on celestial bodies such as the moon.<sup>92</sup> The opposition to any form of weapons in space ignited again under President Reagan's Strategic Defense Initiative (SDI) or Star Wars program, and a collection of NGOs exists today attempting to block further progress. The Global Network Against Weapons and Nuclear Power in Space's statement of concern states the following:

*The arms race is moving into space. The U.S. Space Command, headquartered in Colorado Springs, Colorado, has publicly stated that it intends "to control space in order to protect U.S. interests and investments." It is crucial that the movement to stop this new round in the arms race moves quickly ahead.*<sup>93</sup>



This organization has affiliations with about 100 other NGOs, but none of which are the large well-funded organizations that fueled the Ottawa Convention. Future space weapons are threatened not because of the nature of the weapons chosen but because of the particular location of those weapons. One consultant to the DoD feels strongly that a complete ban on weapons in space is the best candidate for a future Ottawa-like process.<sup>94</sup> The present momentum of the movement to ban weapons in space has fallen short of having a significant influence on US policy on weapons in space. Such resistance would be strengthened in response to the employment of any US weapons in space.

### *Small Arms/Arms Transfer*

US small arms trade in particular and our conventional weapons transfer in general is likely to face increasing pressure in the next decade. In the aftermath of the Cold War resulting in arms surplus, the UN Register of Conventional Weapons was opened in 1991 (of which the US is a participant) to increase transparency with regard to heavy conventional weaponry. In the aftermath of the Ottawa Convention a group of 33 NGOs from 18 countries met in Canada in 1998 to address the proliferation and misuse of small arms. This group launched its campaign in May of 1999 as the International Action Network on Small Arms (IANSA) as part of The Hague Appeal for Peace.<sup>95</sup> The language used by this group closely parallels that used by the ICBL in their quest for a landmine ban:

*Small arms are tools of death...they are used in an indiscriminate manner to kill civilians of all ages, colors and persuasions; they are used to intimidate citizens and communities all over the world....The proliferation and unlawful use of small arms is one of the most serious humanitarian challenges for the next millennium.*<sup>96</sup>

Information on the political and financial strength and its membership is not available, but it is not likely that such a move would have much effect on US policy given the divisiveness of gun control domestically. However, under attack for many years by the ICRC is the standard NATO and US 5.56 mm round for its effects that are similar to those of dum dum bullets that were banned over 100 years ago.<sup>97</sup> IANSA is not behind this effort to ban a certain type of weapon, as they primarily advocate for a range of policy solutions including greater transparency and restrictions in small arms transfers. Whether the issue is bans or restrictions on the use or transfer of small arms, these weapons have little in common with landmines despite the rhetoric. While they share the attributes of being cheaply and easily acquired and widely distributed and used, small arms are probably one of the most discriminate military weapons given their short range, limited firepower, and direct control of the individual soldier. The debate on this issue largely mirrors our domestic debate, and US arms control policy can be expected to mirror the current status of that debate.



### *Laser Weapons*

While no lethal laser weapons are ready for use by US forces, the DoD approved 19 grants to speed laser weapon production in December of 2000 through the newly created High Energy Laser Joint Technology Office. The US Air Force and Army are both working on laser weapon programs to destroy ballistic missiles in flight.<sup>98</sup> While the 1995 Protocol IV of the CCW banned the use of blinding laser weapons, all laser weapons are a potential target for disarmament and human rights groups. Protocol IV, which is much shorter and less robust than the other CCW protocols, only bans those weapons specifically designed to cause permanent blindness and does not include incidental or collateral effects of the use of lasers.<sup>99</sup> No active coalition against laser weapons exists, but this is an issue that has the attention of the ICRC and that would be likely to be championed by various health and medical NGOs and concerned small and medium powers. The use of laser weapons or lasers in weapons is limited to a small group of nations, and the accidental injuries have been minimal. It is unlikely that a movement would begin given the rarity of damages from lasers. The area where laser weapons are more likely to face opposition is in their employment in space.

### *Depleted Uranium*

US forces have fired depleted uranium (DU) shells in three recent conflicts: 300 tons in the 1991 Gulf War, 3 tons in Bosnia from 1994-1995, and 9 tons in Kosovo in 1999.<sup>100</sup> DU munitions, like cluster munitions and unexploded munitions, have come under increasing levels of scrutiny since the NATO air campaign in Kosovo in 1999. DU has become something of an international political issue, with little of the debate concerning scientific evidence of subsequent illness or disease from exposure. This issue is likely to stagnate without scientific evidence of harmful effects—evidence that does exist currently. A panel of EU scientists concluded in March of 2001 that DU shells used in Kosovo have caused no detectable human effects.<sup>101</sup> Even with such evidence, the current alternatives to DU in our armor-piercing shells are both less effective and more poisonous to humans than DU.<sup>102</sup> No organized opposition to DU exists today, and such opposition is not likely to appear in the near future. The amoral nature of DU with no radiation risks and its limited use only in United Kingdom and US weapons makes it unlikely to spark sustained worldwide attention.

## **V. RECOMMENDATIONS AND CONCLUSIONS**

The nature of the findings in the previous two chapters evaluated in light of the background information provided in the first chapter leads to several conclusions for DoD policy concerning conventional arms control. An important consideration here is that the DoD is in the executive branch, and USG policy dictates or constrains DoD policy. The DoD does not have a separate policy on landmines or any other weapon but works with the Administration and within the law on specific policies. In the preceding chapters I have tried to illustrate some of the probabilities and implications of another Ottawa-like Process, and the effect that might have on DoD weapon systems. Flowing from my findings in the preceding chapters, I have two general recommendations for DoD.

### **Recommendations**

#### ***1) Increase Awareness and Adaptation to Changed Political Contexts for Arms Control***

A prevailing attitude within DoD is that the initial position to any arms control treaty is to "just say no."<sup>103</sup> The DoD had to fight to keep weapon systems that the State Department would attempt to give away. Additionally, because of the complexity of many national security issues, the media battleground of "sound-byte" language that tends to oversimplify issues. In contrast to the ICBL, those in the DoD had multiple interests such as protecting the US from all enemies, providing US armed forces with the tools they need to survive and succeed in the defense of US national interests, not setting dangerous precedents lowering future force capabilities, and minimizing humanitarian damages.

The DoD cannot sit on its laurels unless it would like to see interest groups having a more effective voice, as they often are experts in media strategy and garnering public support. Not only does the DoD have to contend with pressures from other states on issues of foreign policy, but the plethora of defense think tanks and NGOs specializing in foreign policy have an increasing voice in the public arena. DoD has the advantage of the institutional framework and inside access and networks to all of the decision-makers.

*...we must not lose sight of Clausewitz's wisdom that politics must guide military policy. But the politics that is going to guide American foreign and security policy is going to be pluralism, and its results cannot be codified ahead of time.<sup>104</sup>*

The DoD could increase awareness of evolving political contexts and how this will continue to shape arms control by an education campaign focused on a current understanding of global trends and domestic political implications. The best way to increase awareness and adaptation is to maintain a vigil of related events involving NGOs and small and medium powers. The DoD needs to observe businesses as they deal with human rights groups, environmentalists, and other kinds of international pressure. Observing the way that businesses operate in this environment will not only provide valuable lessons for DoD but also serve to better understand trends in the international political context. The pace of adaptation to these trends can be hastened by looking into institutionalizing the interaction between the DoD and outside organizations.

## ***2) Enhance Cooperation with NGOs***

The history of DoD's interaction with NGOs in security issues has been mostly adversarial. The mission and purpose of the DoD is to support and defend the Constitution against all enemies. NGOs have a much broader range of purposes, but most of them work on issues that are either not done by the state or not done well. The organizational culture of the Defense Department is more of an authoritarian hierarchy contrasted with the flatter and more 'democratic' NGOs. Also, DoD and NGOs both are reluctant to increase levels of transparency in the inner workings of their respective organizations, but one of the trademark concerns for NGOs is greater governmental transparency.

The DoD worked closely with various NGOs that comprised the ICBL in their capacities as deminers and other humanitarian support on the ground. The US continues to provide more resources for humanitarian demining than any other nation, and US military is involved in training local deminers in removal and training techniques.<sup>105</sup> The relationship between DoD and the NGOs became strained as their agenda began to threaten DoD's use of landmines. NGOs that are primarily advocacy organizations largely drove the agenda towards banning the mines without exception.

The US government has been working with NGOs for many years now. Now, NGOs have taken a proactive role in every aspect of international and domestic policy, from agenda setting to implementation and monitoring as seen in the case study of the Ottawa Convention.

Elizabeth Sherwood-Randall states, "Despite a decade of experience operating in the post-Cold War security environment, the Department of Defense has not yet established or made fully functional the processes required for it to be able to interact on a continuous basis with outside entities."<sup>106</sup> The USG and the DoD may no longer want to turn NGOs away or ignore their expertise.

These organizations have been working on these problems long before the USG takes an interest. Arrogance and misunderstanding between the two entities fueled the initial cleavage between the institutional processes and the alternative process in this case. The Ottawa Process seems to have been more successful in the short term than either of the tracks the USG pursued. The Ottawa Convention may not have some of the major producers or exporters of landmines, but with the backing of 139 nations, arguably provides a powerful stigma against landmines.

The USG and the DoD need to look at NGOs in a different light. Instead of looking at them as vehicles to implement policy or nuisances, they need to respect their influence on public policy including foreign and defense policy as well. Neither the USG nor the DoD has the manpower or resources to handle every issue well. It seems to be a poor use of available resources when NGOs often have the necessary information, expertise, and resources. Sharing information and resources can only benefit the US as a whole, but this requires greater transparency for both the USG and the DoD. Transparency is something that neither entity grants willingly, but the ability to have greater accountability can really foster better decision-making and improve confidence in government. The conflict over landmines between NGOs and the USG/DoD was a power struggle, with the power wielders reluctant to relinquish their corner of influence. The NGOs were simultaneously pushing for a landmine ban and securing more publicity, interest, and a niche of influence for themselves to allow for future success on other issues.

The DoD can improve relationships with NGOs, although a difference in purpose will often encourage adversarial relations. An easy first step is to evaluate NGO arms control agendas by measuring the security benefit of the weapon against its humanitarian cost, moral usage, political costs, and its effect on precedence for arms control. Secondly, it might become necessary to increase transparency in arms research, development, procurement, and acquisition as well as in strategic and tactical requirements. This will undoubtedly raise many national security concerns and should be approached in a way that does not compromise serious security concerns. Thirdly, an appropriate training program concerning NGOs should be developed and used, especially for those in DoD who will be working with arms control. In order to improve relations with NGOs, DoD needs to better understand the purpose, legitimacy, distinctions, and culture of NGOs.

## **Conclusion**

Whether or not the US accedes to the Ottawa Convention, it will not directly affect US security policy at the macro level. However, this case illustrates the changing nature of state and non-

state actors and how trends in globalization affect arms control politics both at the domestic and international level. While the likelihood of an Ottawa-like Process in the future seems to be small, the dynamics illustrated provide some important implications for both the future form and substance of arms control. The Air Force and DoD must recognize and adapt to this changing international and domestic political context in which contemporary arms control negotiations are now mediated and could be mediated in the future as illustrated by the Ottawa Process. I have provided two general recommendations to how the DoD can better adapt to the changing political environment. The danger is drawing conclusions at one of two extremes: one, drawing no lessons from the Ottawa Convention as a complete aberration or two, making sweeping changes in structures, programs, and policies based on this single data point. However, the background information in the paper shows how the Ottawa Convention cannot be simply dismissed as an aberration. If a subsequent Ottawa Process does take place, the DoD has no excuse for being surprised by the power and influence of NGOs in coalition with small and medium powers. The challenge is to critically watch the enfolding drama as the ICBL and the Ottawa Convention struggle to assert and maintain its legitimacy. The long-term success of the Convention will provide an important clue to the intensity of efforts to replicate its success.

## APPENDIX 1 - Acronyms

ABM	Anti-ballistic Missile [Treaty]
ADAM	area denial antipersonnel munition
AP	antipersonnel
APL	antipersonnel landmine (same as APM)
APM	antipersonnel mine (same as APL)
AT	antitank
BLU	bomb live unit
BWC	Biological Weapons Convention
CBU	cluster bomb unit
CCW	Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects (Same as IWC)
CEDAW	Convention on the Elimination of all Forms of Discrimination against Women
CWC	Chemical Weapons Convention
CD	Conference on Disarmament
CFE	Conventional Forces in Europe [Treaty]
CTBT	Comprehensive Test Ban Treaty
DMZ	demilitarized zone
DoD	Department of Defense
DU	depleted uranium
GEMSS	ground-emplaced mine-scattering system
HI	Handicap International
HRW	Human Rights Watch
IANSA	International Action Network on Small Arms
ICCPR	International Covenant on Civil and Political Rights
ICRC	International Committee of the Red Cross
ICESCR	International Covenant on Economic, Social, and Cultural Rights
IHL	International Humanitarian Law
IWC	Inhumane Weapons Convention (same as CCW)
INF	Intermediate-Range Nuclear Forces [Treaty]
INSS	Institute for National Security Studies
ICBL	International Campaign to Ban Landmines
IGO	intergovernmental organization
JCS	Joint Chiefs of Staff
LTBT	Limited Test Ban Treaty
MAG	Mines Action Group
MNC	multi-national corporation
MOPMS	modular pack mine system
NATO	North Atlantic Treaty Organization
NBC	nuclear, biological, and chemical [weapons]
NGO	non governmental organization
NPT	Non-Proliferation Treaty
PDD	Presidential Decision Directive
PDM	pursuit deterrent mine
PNET	Peaceful Nuclear Explosions Treaty
PHR	Physicians for Human Rights
ROK	Republic of Korea

SALT I	Strategic Arms Limitation Treaty I
SALT II	Strategic Arms Limitation Treaty II
SecDef	Secretary of Defense
SD	self-destruct [mines]
SDI	Strategic Defense Initiative
START I	Strategic Arms Reduction Treaty I
TTBT	Threshold Test Ban Treaty
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNC/CFC	United Nations Command / Central Forces Command
UNGA	United Nations General Assembly
USA	United States Army
USAF	United States Air Force
USG	United States government
USN	United States Navy
USCBL	United States Campaign to Ban Landmines
UXO	unexploded ordinance
VVAF	Vietnam Veterans of America Foundation
WMD	weapons of mass destruction
WTO	World Trade Organization

## **APPENDIX 2 – The Ottawa Convention**

### **Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti Personnel Mines and on Their Destruction**

#### **Preamble**

#### **The States Parties,**

Determined to put an end to the suffering and casualties caused by anti personnel mines, that kill or maim hundreds of people every week, mostly innocent and defenceless civilians and especially children, obstruct economic development and reconstruction, inhibit the repatriation of refugees and internally displaced persons, and have other severe consequences for years after emplacement,

Believing it necessary to do their utmost to contribute in an efficient and coordinated manner to face the challenge of removing anti personnel mines placed throughout the world, and to assure their destruction,

Wishing to do their utmost in providing assistance for the care and rehabilitation, including the social and economic reintegration of mine victims,

Recognizing that a total ban of anti personnel mines would also be an important confidence building measure,

Welcoming the adoption of the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby Traps and Other Devices, as amended on 3 May 1996, annexed to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, and calling for the early ratification of this Protocol by all States which have not yet done so,

Welcoming also United Nations General Assembly Resolution 51/45 S of 10 December 1996 urging all States to pursue vigorously an effective, legally binding international agreement to ban the use, stockpiling, production and transfer of anti personnel landmines,

Welcoming furthermore the measures taken over the past years, both unilaterally and multilaterally, aiming at prohibiting, restricting or suspending the use, stockpiling, production and transfer of anti personnel mines,

Stressing the role of public conscience in furthering the principles of humanity as evidenced by the call for a total ban of anti personnel mines and recognizing the efforts to that end undertaken by the International Red Cross and Red Crescent Movement, the International Campaign to Ban Landmines and numerous other non governmental organizations around the world,

Recalling the Ottawa Declaration of 5 October 1996 and the Brussels Declaration of 27 June 1997 urging the international community to negotiate an international and legally binding agreement prohibiting the use, stockpiling, production and transfer of anti personnel mines,

Emphasizing the desirability of attracting the adherence of all States to this Convention, and determined to work strenuously towards the promotion of its universalization in all relevant fora



including, inter alia, the United Nations, the Conference on Disarmament, regional organizations, and groupings, and review conferences of the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects,

Basing themselves on the principle of international humanitarian law that the right of the parties to an armed conflict to choose methods or means of warfare is not unlimited, on the principle that prohibits the employment in armed conflicts of weapons, projectiles and materials and methods of warfare of a nature to cause superfluous injury or unnecessary suffering and on the principle that a distinction must be made between civilians and combatants,

Have agreed as follows:

### **Article 1: General obligations**

1. Each State Party undertakes never under any circumstances:
  - a) To use anti personnel mines;
  - b) To develop, produce, otherwise acquire, stockpile, retain or transfer to anyone, directly or indirectly, anti personnel mines;
  - c) To assist, encourage or induce, in any way, anyone to engage in any activity prohibited to a State Party under this Convention.
2. Each State Party undertakes to destroy or ensure the destruction of all anti personnel mines in accordance with the provisions of this Convention.

### **Article 2: Definitions**

1. "Anti personnel mine" means a mine designed to be exploded by the presence, proximity or contact of a person and that will incapacitate, injure or kill one or more persons. Mines designed to be detonated by the presence, proximity or contact of a vehicle as opposed to a person, that are equipped with anti handling devices, are not considered anti personnel mines as a result of being so equipped.
2. "Mine" means a munition designed to be placed under, on or near the ground or other surface area and to be exploded by the presence, proximity or contact of a person or a vehicle.
3. "Anti handling device" means a device intended to protect a mine and which is part of, linked to, attached to or placed under the mine and which activates when an attempt is made to tamper with or otherwise intentionally disturb the mine.
4. "Transfer" involves, in addition to the physical movement of anti personnel mines into or from national territory, the transfer of title to and control over the mines, but does not involve the transfer of territory containing emplaced anti personnel mines.
5. "Mined area" means an area which is dangerous due to the presence or suspected presence of mines.

### **Article 3: Exceptions**

1. Notwithstanding the general obligations under Article 1, the retention or transfer of a number of anti personnel mines for the development of and training in mine detection, mine clearance, or mine destruction techniques is permitted. The amount of such mines shall not exceed the minimum number absolutely necessary for the above mentioned purposes.
2. The transfer of anti personnel mines for the purpose of destruction is permitted.

### **Article 4: Destruction of stockpiled anti personnel mines**

Except as provided for in Article 3, each State Party undertakes to destroy or ensure the destruction of all stockpiled anti personnel mines it owns or possesses, or that are under its jurisdiction or control, as soon as possible but not later than four years after the entry into force of this Convention for that State Party.

### **Article 5: Destruction of anti personnel mines in mined areas**

1. Each State Party undertakes to destroy or ensure the destruction of all anti personnel mines in mined areas under its jurisdiction or control, as soon as possible but not later than ten years after the entry into force of this Convention for that State Party.
2. Each State Party shall make every effort to identify all areas under its jurisdiction or control in which anti personnel mines are known or suspected to be emplaced and shall ensure as soon as possible that all anti personnel mines in mined areas under its jurisdiction or control are perimeter marked, monitored and protected by fencing or other means, to ensure the effective exclusion of civilians, until all anti personnel mines contained therein have been destroyed. The marking shall at least be to the standards set out in the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby Traps and Other Devices, as amended on 3 May 1996, annexed to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects.
3. If a State Party believes that it will be unable to destroy or ensure the destruction of all anti personnel mines referred to in paragraph 1 within that time period, it may submit a request to a Meeting of the States Parties or a Review Conference for an extension of the deadline for completing the destruction of such anti personnel mines, for a period of up to ten years.
4. Each request shall contain:
  - a) The duration of the proposed extension;
  - b) A detailed explanation of the reasons for the proposed extension, including:
    - (i) The preparation and status of work conducted under national demining programs;
    - (ii) The financial and technical means available to the State Party for the destruction of all the anti personnel mines and
    - (iii) Circumstances which impede the ability of the State Party to destroy all the anti personnel mines in mined areas;

- c) The humanitarian, social, economic, and environmental implications of the extension; and
  - d) Any other information relevant to the request for the proposed extension.
5. The Meeting of the States Parties or the Review Conference shall, taking into consideration the factors contained in paragraph 4, assess the request and decide by a majority of votes of States Parties present and voting whether to grant the request for an extension period.
6. Such an extension may be renewed upon the submission of a new request in accordance with paragraphs 3, 4 and 5 of this Article. In requesting a further extension period a State Party shall submit relevant additional information on what has been undertaken in the previous extension period pursuant to this Article.

#### **Article 6: International cooperation and assistance**

1. In fulfilling its obligations under this Convention each State Party has the right to seek and receive assistance, where feasible, from other States Parties to the extent possible.
2. Each State Party undertakes to facilitate and shall have the right to participate in the fullest possible exchange of equipment, material and scientific and technological information concerning the implementation of this Convention. The States Parties shall not impose undue restrictions on the provision of mine clearance equipment and related technological information for humanitarian purposes.
3. Each State Party in a position to do so shall provide assistance for the care and rehabilitation, and social and economic reintegration, of mine victims and for mine awareness programs. Such assistance may be provided, inter alia, through the United Nations system, international, regional or national organizations or institutions, the International Committee of the Red Cross, national Red Cross and Red Crescent societies and their International Federation, non governmental organizations, or on a bilateral basis.
4. Each State Party in a position to do so shall provide assistance for mine clearance and related activities. Such assistance may be provided, inter alia, through the United Nations system, international or regional organizations or institutions, non governmental organizations or institutions, or on a bilateral basis, or by contributing to the United Nations Voluntary Trust Fund for Assistance in Mine Clearance, or other regional funds that deal with demining.
5. Each State Party in a position to do so shall provide assistance for the destruction of stockpiled anti personnel mines.
6. Each State Party undertakes to provide information to the database on mine clearance established within the United Nations system, especially information concerning various means and technologies of mine clearance, and lists of experts, expert agencies or national points of contact on mine clearance.
7. States Parties may request the United Nations, regional organizations, other States Parties or other competent intergovernmental or non governmental fora to assist its authorities in the elaboration of a national demining program to determine, inter alia:
  - a) The extent and scope of the anti personnel mine problem;

- b) The financial, technological and human resources that are required for the implementation of the program;
  - c) The estimated number of years necessary to destroy all anti personnel mines in mined areas under the jurisdiction or control of the concerned State Party;
  - d) Mine awareness activities to reduce the incidence of mine related injuries or deaths;
  - e) Assistance to mine victims;
  - f) The relationship between the Government of the concerned State Party and the relevant governmental, inter governmental or non governmental entities that will work in the implementation of the program.
8. Each State Party giving and receiving assistance under the provisions of this Article shall cooperate with a view to ensuring the full and prompt implementation of agreed assistance programs.

#### **Article 7: Transparency measures**

1. Each State Party shall report to the Secretary General of the United Nations as soon as practicable, and in any event not later than 180 days after the entry into force of this Convention for that State Party on:
- a) The national implementation measures referred to in Article 9;
  - b) The total of all stockpiled anti personnel mines owned or possessed by it, or under its jurisdiction or control, to include a breakdown of the type, quantity and, if possible, lot numbers of each type of anti personnel mine stockpiled;
  - c) To the extent possible, the location of all mined areas that contain, or are suspected to contain, anti personnel mines under its jurisdiction or control, to include as much detail as possible regarding the type and quantity of each type of anti personnel mine in each mined area and when they were emplaced;
  - d) The types, quantities and, if possible, lot numbers of all anti personnel mines retained or transferred for the development of and training in mine detection, mine clearance or mine destruction techniques, or transferred for the purpose of destruction, as well as the institutions authorized by a State Party to retain or transfer anti personnel mines, in accordance with Article 3;
  - e) The status of programs for the conversion or de commissioning of anti personnel mine production facilities;
  - f) The status of programs for the destruction of anti personnel mines in accordance with Articles 4 and 5, including details of the methods which will be used in destruction, the location of all destruction sites and the applicable safety and environmental standards to be observed;
  - g) The types and quantities of all anti personnel mines destroyed after the entry into force of this Convention for that State Party, to include a breakdown of the quantity of each type of anti personnel mine destroyed, in accordance with Articles 4 and 5, respectively, along with, if possible, the lot numbers of each type of anti personnel mine in the case of destruction in

accordance with Article 4;

- h) The technical characteristics of each type of anti personnel mine produced, to the extent known, and those currently owned or possessed by a State Party, giving, where reasonably possible, such categories of information as may facilitate identification and clearance of anti personnel mines; at a minimum, this information shall include the dimensions, fusing, explosive content, metallic content, colour photographs and other information which may facilitate mine clearance; and
- i) The measures taken to provide an immediate and effective warning to the population in relation to all areas identified under paragraph 2 of Article 5.

2. The information provided in accordance with this Article shall be updated by the States Parties annually, covering the last calendar year, and reported to the Secretary General of the United Nations not later than 30 April of each year.

3. The Secretary General of the United Nations shall transmit all such reports received to the States Parties.

#### **Article 8: Facilitation and clarification of compliance**

1. The States Parties agree to consult and cooperate with each other regarding the implementation of the provisions of this Convention, and to work together in a spirit of cooperation to facilitate compliance by States Parties with their obligations under this Convention.

2. If one or more States Parties wish to clarify and seek to resolve questions relating to compliance with the provisions of this Convention by another State Party, it may submit, through the Secretary General of the United Nations, a Request for Clarification of that matter to that State Party. Such a request shall be accompanied by all appropriate information. Each State Party shall refrain from unfounded Requests for Clarification, care being taken to avoid abuse. A State Party that receives a Request for Clarification shall provide, through the Secretary General of the United Nations, within 28 days to the requesting State Party all information which would assist in clarifying this matter.

3. If the requesting State Party does not receive a response through the Secretary General of the United Nations within that time period, or deems the response to the Request for Clarification to be unsatisfactory, it may submit the matter through the Secretary General of the United Nations to the next Meeting of the States Parties. The Secretary General of the United Nations shall transmit the submission, accompanied by all appropriate information pertaining to the Request for Clarification, to all States Parties. All such information shall be presented to the requested State Party which shall have the right to respond.

4. Pending the convening of any meeting of the States Parties, any of the States Parties concerned may request the Secretary General of the United Nations to exercise his or her good offices to facilitate the clarification requested.

5. The requesting State Party may propose through the Secretary General of the United Nations the convening of a Special Meeting of the States Parties to consider the matter. The Secretary General of the United Nations shall thereupon communicate this proposal and all information submitted by the States Parties concerned, to all States Parties with a request that they indicate whether they favour a Special Meeting of the States Parties, for the purpose of considering the matter. In the event that within 14 days from the date of such communication, at least one third of the States Parties favours

such a Special Meeting, the Secretary General of the United Nations shall convene this Special Meeting of the States Parties within a further 14 days. A quorum for this Meeting shall consist of a majority of States Parties.

6. The Meeting of the States Parties or the Special Meeting of the States Parties, as the case may be, shall first determine whether to consider the matter further, taking into account all information submitted by the States Parties concerned. The Meeting of the States Parties or the Special Meeting of the States Parties shall make every effort to reach a decision by consensus. If despite all efforts to that end no agreement has been reached, it shall take this decision by a majority of States Parties present and voting.

7. All States Parties shall cooperate fully with the Meeting of the States Parties or the Special Meeting of the States Parties in the fulfillment of its review of the matter, including any fact finding missions that are authorized in accordance with paragraph 8.

8. If further clarification is required, the Meeting of the States Parties or the Special Meeting of the States Parties shall authorize a fact finding mission and decide on its mandate by a majority of States Parties present and voting. At any time the requested State Party may invite a fact finding mission to its territory. Such a mission shall take place without a decision by a Meeting of the States Parties or a Special Meeting of the States Parties to authorize such a mission. The mission, consisting of up to 9 experts, designated and approved in accordance with paragraphs 9 and 10, may collect additional information on the spot or in other places directly related to the alleged compliance issue under the jurisdiction or control of the requested State Party.

9. The Secretary General of the United Nations shall prepare and update a list of the names, nationalities and other relevant data of qualified experts provided by States Parties and communicate it to all States Parties. Any expert included on this list shall be regarded as designated for all fact finding missions unless a State Party declares its non acceptance in writing. In the event of non acceptance, the expert shall not participate in fact finding missions on the territory or any other place under the jurisdiction or control of the objecting State Party, if the non acceptance was declared prior to the appointment of the expert to such missions.

10. Upon receiving a request from the Meeting of the States Parties or a Special Meeting of the States Parties, the Secretary General of the United Nations shall, after consultations with the requested State Party, appoint the members of the mission, including its leader. Nationals of States Parties requesting the fact finding mission or directly affected by it shall not be appointed to the mission. The members of the fact finding mission shall enjoy privileges and immunities under Article VI of the Convention on the Privileges and Immunities of the United Nations, adopted on 13 February 1946.

11. Upon at least 72 hours notice, the members of the fact finding mission shall arrive in the territory of the requested State Party at the earliest opportunity. The requested State Party shall take the necessary administrative measures to receive, transport and accommodate the mission, and shall be responsible for ensuring the security of the mission to the maximum extent possible while they are on territory under its control.

12. Without prejudice to the sovereignty of the requested State Party, the fact finding mission may bring into the territory of the requested State Party the necessary equipment which shall be used exclusively for gathering information on the alleged compliance issue. Prior to its arrival, the mission will advise the requested State Party of the equipment that it intends to utilize in the course of its fact finding mission.

13. The requested State Party shall make all efforts to ensure that the fact finding mission is given the opportunity to speak with all relevant persons who may be able to provide information related to the alleged compliance issue.

14. The requested State Party shall grant access for the fact finding mission to all areas and installations under its control where facts relevant to the compliance issue could be expected to be collected. This shall be subject to any arrangements that the requested State Party considers necessary for:

- a) The protection of sensitive equipment, information and areas;
- b) The protection of any constitutional obligations the requested State Party may have with regard to proprietary rights, searches and seizures, or other constitutional rights; or
- c) The physical protection and safety of the members of the fact finding mission.

In the event that the requested State Party makes such arrangements, it shall make every reasonable effort to demonstrate through alternative means its compliance with this Convention.

15. The fact finding mission may remain in the territory of the State Party concerned for no more than 14 days, and at any particular site no more than 7 days, unless otherwise agreed.

16. All information provided in confidence and not related to the subject matter of the fact finding mission shall be treated on a confidential basis.

17. The fact finding mission shall report, through the Secretary General of the United Nations, to the Meeting of the States Parties or the Special Meeting of the States Parties the results of its findings.

18. The Meeting of the States Parties or the Special Meeting of the States Parties shall consider all relevant information, including the report submitted by the fact finding mission, and may request the requested State Party to take measures to address the compliance issue within a specified period of time. The requested State Party shall report on all measures taken in response to this request.

19. The Meeting of the States Parties or the Special Meeting of the States Parties may suggest to the States Parties concerned ways and means to further clarify or resolve the matter under consideration, including the initiation of appropriate procedures in conformity with international law. In circumstances where the issue at hand is determined to be due to circumstances beyond the control of the requested State Party, the Meeting of the States Parties or the Special Meeting of the States Parties may recommend appropriate measures, including the use of cooperative measures referred to in Article 6.

20. The Meeting of the States Parties or the Special Meeting of the States Parties shall make every effort to reach its decisions referred to in paragraphs 18 and 19 by consensus, otherwise by a two thirds majority of States Parties present and voting.

#### **Article 9: National implementation measures**

Each State Party shall take all appropriate legal, administrative and other measures, including the imposition of penal sanctions, to prevent and suppress any activity prohibited to a State Party under this Convention undertaken by persons or on territory under its jurisdiction or control.



### **Article 10: Settlement of disputes**

1. The States Parties shall consult and cooperate with each other to settle any dispute that may arise with regard to the application or the interpretation of this Convention. Each State Party may bring any such dispute before the Meeting of the States Parties.
2. The Meeting of the States Parties may contribute to the settlement of the dispute by whatever means it deems appropriate, including offering its good offices, calling upon the States Parties to a dispute to start the settlement procedure of their choice and recommending a time limit for any agreed procedure.
3. This Article is without prejudice to the provisions of this Convention on facilitation and clarification of compliance.

### **Article 11: Meetings of the States Parties**

1. The States Parties shall meet regularly in order to consider any matter with regard to the application or implementation of this Convention, including:
  - a) The operation and status of this Convention;
  - b) Matters arising from the reports submitted under the provisions of this Convention;
  - c) International cooperation and assistance in accordance with Article 6;
  - d) The development of technologies to clear anti personnel mines;
  - e) Submissions of States Parties under Article 8; and
  - f) Decisions relating to submissions of States Parties as provided for in Article 5.
2. The First Meeting of the States Parties shall be convened by the Secretary General of the United Nations within one year after the entry into force of this Convention. The subsequent meetings shall be convened by the Secretary General of the United Nations annually until the first Review Conference.
3. Under the conditions set out in Article 8, the Secretary General of the United Nations shall convene a Special Meeting of the States Parties.
4. States not parties to this Convention, as well as the United Nations, other relevant international organizations or institutions, regional organizations, the International Committee of the Red Cross and relevant non governmental organizations may be invited to attend these meetings as observers in accordance with the agreed Rules of Procedure.

### **Article 12: Review Conferences**

1. A Review Conference shall be convened by the Secretary General of the United Nations five years after the entry into force of this Convention. Further Review Conferences shall be convened by the Secretary General of the United Nations if so requested by one or more States Parties, provided that



the interval between Review Conferences shall in no case be less than five years. All States Parties to this Convention shall be invited to each Review Conference.

2. The purpose of the Review Conference shall be:

- a) To review the operation and status of this Convention;
- b) To consider the need for and the interval between further Meetings of the States Parties referred to in paragraph 2 of Article 11;
- c) To take decisions on submissions of States Parties as provided for in Article 5; and
- d) To adopt, if necessary, in its final report conclusions related to the implementation of this Convention.

3. States not parties to this Convention, as well as the United Nations, other relevant international organizations or institutions, regional organizations, the International Committee of the Red Cross and relevant non governmental organizations may be invited to attend each Review Conference as observers in accordance with the agreed Rules of Procedure.

### **Article 13: Amendments**

1. At any time after the entry into force of this Convention any State Party may propose amendments to this Convention. Any proposal for an amendment shall be communicated to the Depositary, who shall circulate it to all States Parties and shall seek their views on whether an Amendment Conference should be convened to consider the proposal. If a majority of the States Parties notify the Depositary no later than 30 days after its circulation that they support further consideration of the proposal, the Depositary shall convene an Amendment Conference to which all States Parties shall be invited.

2. States not parties to this Convention, as well as the United Nations, other relevant international organizations or institutions, regional organizations, the International Committee of the Red Cross and relevant non governmental organizations may be invited to attend each Amendment Conference as observers in accordance with the agreed Rules of Procedure.

3. The Amendment Conference shall be held immediately following a Meeting of the States Parties or a Review Conference unless a majority of the States Parties request that it be held earlier.

4. Any amendment to this Convention shall be adopted by a majority of two thirds of the States Parties present and voting at the Amendment Conference. The Depositary shall communicate any amendment so adopted to the States Parties.

5. An amendment to this Convention shall enter into force for all States Parties to this Convention which have accepted it, upon the deposit with the Depositary of instruments of acceptance by a majority of States Parties. Thereafter it shall enter into force for any remaining State Party on the date of deposit of its instrument of acceptance.

### **Article 14: Costs**

1. The costs of the Meetings of the States Parties, the Special Meetings of the States Parties, the Review Conferences and the Amendment Conferences shall be borne by the States Parties and States

not parties to this Convention participating therein, in accordance with the United Nations scale of assessment adjusted appropriately.

2. The costs incurred by the Secretary General of the United Nations under Articles 7 and 8 and the costs of any fact finding mission shall be borne by the States Parties in accordance with the United Nations scale of assessment adjusted appropriately.

#### **Article 15: Signature**

This Convention, done at Oslo, Norway, on 18 September 1997, shall be open for signature at Ottawa, Canada, by all States from 3 December 1997 until 4 December 1997, and at the United Nations Headquarters in New York from 5 December 1997 until its entry into force.

#### **Article 16: Ratification, acceptance, approval or accession**

1. This Convention is subject to ratification, acceptance or approval of the Signatories.
2. It shall be open for accession by any State which has not signed the Convention.
3. The instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.

#### **Article 17: Entry into force**

1. This Convention shall enter into force on the first day of the sixth month after the month in which the 40th instrument of ratification, acceptance, approval or accession has been deposited.
2. For any State which deposits its instrument of ratification, acceptance, approval or accession after the date of the deposit of the 40th instrument of ratification, acceptance, approval or accession, this Convention shall enter into force on the first day of the sixth month after the date on which that State has deposited its instrument of ratification, acceptance, approval or accession.

#### **Article 18: Provisional application**

Any State may at the time of its ratification, acceptance, approval or accession, declare that it will apply provisionally paragraph 1 of Article 1 of this Convention pending its entry into force.

#### **Article 19: Reservations**

The Articles of this Convention shall not be subject to reservations.

#### **Article 20: Duration and withdrawal**

1. This Convention shall be of unlimited duration.
2. Each State Party shall, in exercising its national sovereignty, have the right to withdraw from this Convention. It shall give notice of such withdrawal to all other States Parties, to the Depositary and to the United Nations Security Council. Such instrument of withdrawal shall include a full explanation of the reasons motivating this withdrawal.

3. Such withdrawal shall only take effect six months after the receipt of the instrument of withdrawal by the Depositary. If, however, on the expiry of that six month period, the withdrawing State Party is engaged in an armed conflict, the withdrawal shall not take effect before the end of the armed conflict.

4. The withdrawal of a State Party from this Convention shall not in any way affect the duty of States to continue fulfilling the obligations assumed under any relevant rules of international law.

#### **Article 21: Depositary**

The Secretary General of the United Nations is hereby designated as the Depositary of this Convention.

#### **Article 22: Authentic texts**

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary General of the United Nations.

## END NOTES

- <sup>1</sup> The NPT is an exception including Great Britain from the beginning.
- <sup>2</sup> Thomas Schelling and Morton Halperin, *Strategy and Arms Control*, 1961, p. 3.
- <sup>3</sup> Jeffrey A. Larsen and Gregory J. Rattray, *Arms Control Toward the 21<sup>st</sup> Century*, Lynne Rienner, 1996, Boulder, p. 8.
- <sup>4</sup> Kerry M. Kartchner, 'The Objectives of Arms Control,' *Arms Control Toward the 21<sup>st</sup> Century*, p. 25-26.
- <sup>5</sup> Ibid, p. 287.
- <sup>6</sup> Ibid, p. 287.
- <sup>7</sup> Ibid, p. 290.
- <sup>8</sup> Ibid, p. 291.
- <sup>9</sup> Bus Week/Harris Poll & ABC News/Washington Post, July 2000.
- <sup>10</sup> Thomas L. Friedman, *The Lexus and the Olive Tree*, Random House, New York, 2000, p. 13.
- <sup>11</sup> Charter of the United Nations.
- <sup>12</sup> Stuart Maslen, 'The Role of the International Committee of the Red Cross,' *To Walk Without Fear*, p. 80.
- <sup>13</sup> Ibid, Article 2.
- <sup>14</sup> United Nations Human Development Report, *Definitions*, 1994.
- <sup>15</sup> Ibid.
- <sup>16</sup> Ibid, Chapter 2.
- <sup>17</sup> Robert Jervis, 'U.S. Grand Strategy: Mission Impossible,' *Naval War College Review*, Summer 1998, Vol. L1, No. 3, p. 27-28.
- <sup>18</sup> Ibid, p. 26-27.
- <sup>19</sup> Taken from the ICBL website, [www.icbl.org](http://www.icbl.org).
- <sup>20</sup> *Landmine Monitor Report 2000*, Human Rights Watch.
- <sup>21</sup> Office of the Secretary of Defense, Landmines Information Paper, 3 March 1999, p. 4.
- <sup>22</sup> Army Field Manual 20-32.
- <sup>23</sup> Ibid.
- <sup>24</sup> *Landmine Monitor Report 2000*, Human Rights Watch.
- <sup>25</sup> Army Field Manual 20-32, 'Scatterable Mines and Mine Delivery Systems,' p. 12.
- <sup>26</sup> Ibid, p. 15.
- <sup>27</sup> Robert G. Gard, Jr., 'The Military Utility of Anti-Personnel Landmines,' *To Walk Without Fear*, p. 145-146.
- <sup>28</sup> 'Multilateral Treaties Deposited with the Secretary General,' <http://untreaty.un.org>, February 13, 2001.
- <sup>29</sup> Robert Lawson, 'The Ottawa Process and the International Movement to Ban Anti-Personnel Mines,' *To Walk Without Fear*, p. 166.
- <sup>30</sup> International Committee of the Red Cross website, [www.icrc.org](http://www.icrc.org).
- <sup>31</sup> Leon Gordenker and Thomas G Weiss, 'Pluralizing Global Governance: Analytical Approaches and Dimensions,' *NGOs, The UN, & Global Governance*, Lynne Rienner, Boulder, 1996, p. 18.
- <sup>32</sup> Interview with Caleb Rossiter, Consultant to VVAF, June 14, 2000.
- <sup>33</sup> ICBL website, [www.icbl.org](http://www.icbl.org).
- <sup>34</sup> Interview with Caleb Rossiter, Consultant to VVAF, June 14, 2000.
- <sup>35</sup> [www.armscontrol.org](http://www.armscontrol.org).
- <sup>36</sup> Interview with Colonel Paul Hughes, January 24, 2001.
- <sup>37</sup> Interview with Colonel Tom Stott and Marc Cheek, OSD Policy, January 24, 2001.
- <sup>38</sup> Maxwell A. Cameron, Robert J. Lawson, and Brian W. Tomlin, "To Walk Without Fear," *To Walk Without Fear: The Global Campaign to Ban Landmines*, Oxford, Oxford, 1998, p. 5.
- <sup>39</sup> Interview with Caleb Rossiter, Consultant to VVAF, June 14, 2000.
- <sup>40</sup> Kenneth Roth, 'Sidelined on Human Rights: America Bows Out,' *Foreign Affairs* 77, 2 (1998): 2.
- <sup>41</sup> Interview with Caleb Rossiter, Consultant to VVAF, June 14, 2000.
- <sup>42</sup> US Senate Bill, S-3078.
- <sup>43</sup> Interview with Colonel Paul Hughes, January 24, 2001.
- <sup>44</sup> *NGOs, the UN, and Global Governance*, ed. by Thomas G. Weiss and Leon Gordenker, Boulder, Lynne Rienner, 1996, p. 33.
- <sup>45</sup> Briefing slides from Colonel John F. Troxel, USA.

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- <sup>46</sup> Jeffrey A. Larsen and Gregory J. Rattray, *Arms Control Toward the 21<sup>st</sup> Century*, Lynne Rienner, 1996, Boulder, p. 8.
- <sup>47</sup> Dupuy Institute's Research Study, p. 11.
- <sup>48</sup> Stover 102-103
- <sup>49</sup> Larsen and Rattray, p. 306-311.
- <sup>50</sup> "The CD is the successor to the Ten-Nation Committee on Disarmament (1959-60), established by the foreign ministers of France, the United Kingdom, the United States, and the Soviet Union; the Eighteen-Nation Committee on Disarmament (1962-69); the Conference of the Committee on Disarmament (1969-78; and the Committee on Disarmament (1979-83)." Jozef Goldblat, 'The Conference on Disarmament at the Crossroads: To Revitalize or Dissolve?', *The Nonproliferation Review*, Summer 2000.
- <sup>51</sup> Since the Ottawa Process began without an official framework, the date used here is 1996 that marked the 14 month process leading to the Ottawa Convention.
- <sup>52</sup> The original membership of the Geneva body included all five nuclear weapons states plus 35 other states representing all geographical regions and political groupings. The reunification of Germany and dissolution of Czechoslovakia caused the number to drop to 38 states. In 1996 and 1999, 23 and 5 additional states were added to the CD, respectively, bringing the number to 66. Member states and additional information can be found at <http://www.unog.ch/disarm/disconf.htm>.
- <sup>53</sup> The most important treaties negotiated by this body were the 1968 nuclear Non-proliferation Treaty (NPT), the 1972 Biological Weapons Convention (BWC), the 1993 Chemical Weapons Convention, and the 1996 Comprehensive Test Ban Treaty (CTBT).
- <sup>54</sup> Protocol I restricts fragmentation weapons, Protocol II restricts landmines and booby-Traps, Protocol III restricts incendiary weapons, and Protocol IV restricts blinding laser weapons. Additional protocols have been discussed.
- <sup>55</sup> Mary Wareham, interview in August of 2000.
- <sup>56</sup> Interview with State Department official who asked to remain anonymous, January 23, 2001.
- <sup>57</sup> Jozef Goldblat, 'The Conference on Disarmament at the Crossroads: To Revitalize or Dissolve?', *The Nonproliferation Review*, Summer 2000, p. 106.
- <sup>58</sup> Maxwell A. Cameron, Robert J. Lawson, and Brian W. Tomlin, 'To Walk Without Fear,' *To Walk Without Fear: The Global Campaign to Ban Landmines*, Oxford, Oxford, 1998, p. 11.
- <sup>59</sup> Ibid.
- <sup>60</sup> Jody Williams and Stephen Goose, 'The International Campaign to Ban Landmines,' *To Walk Without Fear*, p. 36.
- <sup>61</sup> Ibid.
- <sup>62</sup> Ibid.
- <sup>63</sup> Interview with Caleb Rossiter, June 14, 2000.
- <sup>64</sup> *Hidden Killers 1998: The Global Landmine Crisis*, Report released by the U.S. Department of State, Bureau of Political-Military Affairs, Office of Humanitarian Demining Programs, Washington, DC, September 1998.
- <sup>65</sup> Interview with Colonel Paul Hughes, January 24, 2001.
- <sup>66</sup> Ibid, p. 107.
- <sup>67</sup> Michael Ignatieff, Lecture in 'Human Rights and International Politics,' JFK School of Government, September 2000.
- <sup>68</sup> Maxwell A. Cameron, Robert J. Lawson, and Brian W. Tomlin, 'To Walk Without Fear,' *To Walk Without Fear: The Global Campaign to Ban Landmines*, Oxford, Oxford, 1998, p. 7.
- <sup>69</sup> Robert Lawson, Mark Gwozdecky, Jill Sinclair, and Ralph Lysyshyn, 'The Ottawa Process and the International Movement to Ban Anti-personnel Mines,' *To Walk Without Fear: The Global Campaign to Ban Landmines*, Oxford, Oxford, 1998, p. 160.
- <sup>70</sup> Interview with a DoD official, January 24, 2001.
- <sup>71</sup> *NGOs, the UN, and Global Governance*, ed. by Thomas G. Weiss and Leon Gordenker, Boulder, Lynne Rienner, 1996, p. 44.
- <sup>72</sup> Interview with Marc Cheek and Colonel Tom Stott, OSD Policy, January 24, 2001.
- <sup>73</sup> Statement by the President. The White House. Office of the Press Secretary. January 19, 2001.
- <sup>74</sup> Bernard E. Brown, NATO Hits a Landmine, National Committee on American Foreign Policy, <http://ncafp.org/mines.htm>, p. 12.

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- <sup>75</sup> Interview with Caleb Rossiter, June 14, 2000.
- <sup>76</sup> Ibid.
- <sup>77</sup> Interview with Col. Paul Hughes, January 24, 2001.
- <sup>78</sup> Interview with Col Paul Hughes, January 24, 2001.
- <sup>79</sup> Robin Coupland and Peter Herby, 'Review of the legality of weapons: a new approach The SirUS Project,' International Review of the Red Cross No. 835, p. 583.
- <sup>80</sup> Ibid.
- <sup>81</sup> Geneva Conventions, Protocol I, Article 36, 1949.
- <sup>82</sup> Interviews at the Pentagon, January 24, 2001.
- <sup>83</sup> Search conducted of Major Newspapers on Lexis-Nexis on March 13, 2001.
- <sup>84</sup> Searched for 'landmines' or 'land mines.'
- <sup>85</sup> Searched for 'cluster munitions' or 'cluster bombs.'
- <sup>86</sup> 'Clinton's Landmine Legacy,' Human Rights Watch, Vol. 12, No. 3(G), July 2000, p. 8-9.
- <sup>87</sup> ICBL website, [www.icbl.org](http://www.icbl.org), February 6, 2001.
- <sup>88</sup> 'Ticking Time Bombs: NATO's Use of Cluster Munitions in Yugoslavia,' Human Rights Watch, Vol. 11, No. 6(D), June 1999.
- <sup>89</sup> Interview with Col. Paul Hughes, January 24, 2001.
- <sup>90</sup> Interview with Col. Tom Stott and Marc Cheek, OSD Policy, January 24, 2001.
- <sup>91</sup> William M. Arkin, 'Ticking Time Bombs: NATO's Use of Cluster Munitions in Yugoslavia,' *Human Rights Watch*, Vol. 11, No. 6 (D), May 1999, p. 6.
- <sup>92</sup> Treaty on Principles Governing the Activities of States in the Exploration and use of Outer Space, including the Moon and Other Celestial Bodies, entered into force on October 10, 1967.
- <sup>93</sup> Global Network Against Weapons and Nuclear Power in Space's website, <http://www.globenet.free-online.co.uk>.
- <sup>94</sup> Interview with Forrest Waller, Science Applications International Corporation, August 7, 2000.
- <sup>95</sup> International Action Network on Small Arms website, [www.iansa.org](http://www.iansa.org).
- <sup>96</sup> Ibid.
- <sup>97</sup> Interview with Col. Paul Hughes, 24 January 2001.
- <sup>98</sup> Otto Kreisher, 'Defense Dept. awards laser research funds,' *The San Diego Union-Tribune*, December 28, 2000.
- <sup>99</sup> Protocol on Blinding Laser Weapons (Protocol IV), Additional Protocol to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to have Indiscriminate Effects, Vienna, 25 Sept-13 Oct. 1995.
- <sup>100</sup> 'Corrections & Amplifications,' *Wall Street Journal*, March 8, 2001.
- <sup>101</sup> Dan Bilefsky, 'Scientists rule on Kosovo shells,' *Financial Times*, March 7, 2001, USA Edition.
- <sup>102</sup> Ibid.
- <sup>103</sup> Interviews with current and former DoD employees who worked on arms control policy, 2000-2001.
- <sup>104</sup> Ibid, p. 31-32.
- <sup>105</sup> Robert M. Beecroft and Matthew F. Murphy, 'Removing the Hidden Killers: US Humanitarian Demining Program,' US Department of State, December 1, 1998.
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